

# ACCOUNTANCY

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## PROFESSIONAL NOTES

### Britain's International Accounts

The White Paper on the balance of payments of the United Kingdom presents a startling picture. In 1947 there was an adverse balance on current account of £675 million. Imports cost £1,574 million, Government expenditure abroad was £211 million, and invisible imports totalled £320 million, making our aggregate payments to the outside world £2,105 million. Our exports of goods fetched £1,125 million, and invisible exports were £305 million, thus producing total receipts from overseas of £1,430 million. The deficit of £675 million was almost exactly the same as our adverse balance with the Western Hemisphere (£680 million), for with the sterling area we had a surplus of £80 million, and with the remainder of the world a deficit of £75 million. The price of imports rose last year much faster than that of exports, and this fact accounted for a fair part of the increase in the adverse balance from the 1946 figure of £380 million. However, the figure of Government expenditure abroad is clearly too large for us to bear in our straitened circumstances, especially since the doubtful accounting procedure is followed of reaching the figure of £211 million after taking credit for sales of war and other stocks (unofficially quoted at no less than £140 million). For some reason, it is customary for most commentaries on the balance of payments to emphasise the reduction of invisible exports under the head of interest on overseas investments; this item fell from £205 million in 1938 to £145 million in 1947, a substantial and regrettable decline, it is true, but one which should not receive

undue emphasis in relation to other more important factors such as those mentioned.

The drain on our gold and dollar reserves last year amounted to no less than £1,023 million, made up of the adverse current balance of £675 million *plus* a reduction of £142 million in sterling balances held in this country by non-residents, *plus* a balancing figure of £206 million representing, as the White Paper puts it, an increase in British assets held in other countries. But this balancing figure is of doubtful accounting propriety. It includes an unspecified sum, probably a large one, of capital exported by emigrants which, although it meant a reduction in our reserves, certainly did not create for us external assets of anything like this amount. The prospects are gloomy in the extreme, for at the current rate of drain on our reserves (about £40 million per month) the existing total of about £600 million from all sources would be down by this summer to the figure commonly regarded as a minimum working balance for the sterling area. The palliative of aid under the Marshall Plan may arrive in time to prevent a mid-year catastrophe; but there can be no exaggerating our present extremity and the necessity for an all-out effort, such as has been frequently discussed in these columns, to overcome it.

From a narrower accounting point of view, it is interesting to note that the White Paper gives two tables, one headed "Current Account" and the other

headed "Capital Account," both in narrative form. The result is, particularly in the Capital Account, rather confusing, since in one place items have a *plus* sign, and in another place the same items have a *minus* sign. It would be clearer if a two-columnar system of accounts had been used. This is one of the cases where setting out receipts and payments or assets and liabilities on the two sides of the traditional form of account would be vastly more intelligible, not only to the reader accustomed to accounting, but also to the man in the street, than the narrative form.

#### Limitation of Advertising

It will be remembered that the proposed tax on advertising contained in last autumn's budget was withdrawn in favour of a voluntary scheme for limitation of advertising to be worked out by the Federation of British Industries. The object is to reduce the demand for scarce and luxury goods. The scheme, which is now published, and which is entirely voluntary, provides that an advertiser whose advertising expenditure on "designated" goods exceeded £2,500 during the "reference period" will reduce his corresponding expenditure during the "operative period" at the rate of 15 per cent., provided that the reduced expenditure is not brought below £2,500 a year. "Reference period" means the last completed financial year up to end-February, 1948; "designated goods" means consumers or household goods which are rationed, liquid and solid fuels, alcoholic drinks, tobacco and goods subject to purchase tax of 66½ per cent. or more; and the "operative period" is the calendar year from March 1, 1948. If the advertising expenditure on designated goods during the reference period was below £2,500, this will be the limit for the operative period. New advertisers will limit themselves to £2,500 a year, except with the agreement of a standing committee which will consult with the trade association concerned. Copies of the plan were being sent to advertisers, agents, and the owners of advertising media at the end of February. The media in question are the Press, outdoor advertising sites, cinemas and exhibitions, and point-of-sales and mail advertisements. Those receiving the plan from the F.B.I. are asked to sign an undertaking that they will agree to the rules and to return it to the Federation.

#### Taxation and Trade Associations

By agreement with the Board of Inland Revenue, many trade associations accept liability to tax on their annual surpluses of income over expenditure in addition to their normal liability on interest and dividends received, thereby relieving members' subscriptions from tax. Recently, however, some associations have found that in current conditions their anticipated expenditures have been considerably restricted, with a consequent increase in their tax liability on enlarged surpluses. When conditions become more normal, it is realised that the annual income will not cover both the current and deferred expenditure, and deficiencies are inevitable. Hitherto they have been eligible for relief under Section 34 of the Income Tax Act, 1918, and in the event of the

deficiency exceeding the repayment of tax under such a claim, the balance could be carried forward against any surplus arising in the next six years, under Section 33 of the Finance Act, 1926. Nevertheless, it is quite possible that with heavy expenditures, the latter concession may prove inadequate since the surpluses during the six years following a deficiency may be quite small. To meet this situation, the Board of Inland Revenue have provided that any deficiency which cannot be relieved under Section 34 will, as from 1947-8, give rise to a repayment of tax at the standard rate in the year of the claim up to an amount not exceeding the total tax payments of the preceding six years' assessments. If there then remains any balance of deficiency, it may be carried forward under the six-year rule. Thus, if in 1947-8 admissible expenditure exceeds contribution income by £1,000, the association would claim a repayment of £450 by a Section 34 claim for the refund of any tax paid on the 1947-8 assessment, and on the investment income of that year. If after such a repayment a balance of deficiency remains, the concession under Section 33 is invoked. The balance to be carried forward is computed by grossing up the tax repayment at the rate of tax for that year, and deducting this figure from the original deficiency. Thus, assuming a 1947-8 loss of £3,000 and ignoring any Section 34 claim, if the tax paid on the assessments from 1942-3 to 1947-8 totals only £1,020, the deficiency to be carried forward to 1954-5 is £734, i.e., £3,000 less £2,266 (£1,020 grossed up at 9s. in £). This concessionary backward spread, as it is termed, does not cover past tax paid on investment income in the earlier years, and relief thereon is only available under a Section 34 claim.

#### Ex-Enemy Property

Following the Peace Treaties with Italy, Roumania, Hungary, and Bulgaria, a charge has been made on the property, rights and interests in the United Kingdom belonging to those countries, or, with certain exceptions, to their nationals. Property, rights and interests of individual nationals of those countries resident in territory which has at no time been enemy territory are, however, released from the charge, unless they have been subject to Trading with the Enemy Orders.

#### Pilot Census of Distribution

Judging from recent remarks of the President of the Board of Trade, the response to the pilot census of distribution is not all that it might be. He has referred to opposition in some parts of the pilot area, and has stressed that the compulsory national census, planned for 1950, will take place whatever the response to the pilot census. He has remarked also—a point which might have been made clearer from the start—that one of the principal aims of the pilot census is to discover the most painless method of obtaining the required information from traders. Representatives of the trades concerned were called in by the Board of Trade to assist them in drafting the forms for the pilot census. But the forms do not fit the circumstances of every kind of business—it would be a miracle if they did—and although most of the information required ought to be readily avail-



able to the majority of businesses, the answers to some of the questions could not even be estimated without a great deal of research. In these circumstances the dangers of opposition or apathy are obvious. Unless the census office get a reasonable response, the forms will go out to traders all over the country in 1950 containing the same difficulties and obscurities as at present. Traders and their accountants are clearly not intended to waste valuable time and labour extracting information which they do not have to hand. However, if they complete the forms to the extent only that their existing records permit, it would be reasonable to hope that the national census schedules will be better drafted and more readily answered.

#### **Actions Against the Crown**

The principal objects of the Crown Proceedings Act, which is now in force, are to make the Crown liable in tort and to reform rules of procedure governing litigation by and against the Crown. It applies to England and Scotland, and may be extended by Order in Council to Northern Ireland. Part I of the Act puts the Crown in its public capacity in the same position for the purposes of the law of torts as a private person. Exceptions include matters concerning the defence of the realm and the postal service, but by Section 9 (2) the Crown accepts liability for loss or damage to registered inland postal parcels. Part II abolishes the Petition of Right and other archaic forms of procedure. Civil proceedings are governed by Rules of Court, and such Rules, both for the Supreme and County Courts, have now been laid down. The Crown may sue or be sued in the name either of an appropriate Government Department or of the Attorney-General. Any remedy may be granted against the Crown except an injunction or order for specific performance. Part III deals with judgments and executions, and Part IV with supplemental issues, including particularly the power to order the Crown to give discovery.

#### **Guidance to Exporters**

The Association of British Chambers of Commerce have issued a memorandum of guidance to manufacturers who wish to assist the export drive, but are inexperienced in export trade. The maker of components or the processor of goods made by others has very little chance of direct exports, say the Chamber, and can best assist the export drive by ensuring that deliveries and price at home are satisfactory. For makers of completely finished articles, the best route to exporting is probably to make an arrangement with an experienced export merchant. The largest body of export merchants in the country is the National General Export Merchants' Group, whose address is 69, Cannon Street, London, E.C.4. This Group during the last year has placed in touch with experienced merchant exporters more than one thousand manufacturers who sought overseas outlets for their products. Alternatively, some of the large manufacturers selling direct to countries abroad might be prepared to make arrangements with smaller producers for marketing goods through their organisation. The Chamber emphasises the necessity of

exercising great care if an agent abroad is to be appointed by a small manufacturer—before such an appointment is effected, full enquiries should be made about the prospective agent and how his organisation functions.

An approach to the Export Promotion Department of the Board of Trade at 35, Old Queen Street, London, S.W.1, will frequently be of use to the smaller manufacturer proposing to enter the export trade. Mention may also be made of a useful booklet published by Lloyds Bank Ltd., called "Priority Target—Exports," which gives useful information on the finance of international trade and on the preparation of shipping documents.

#### **Mortgage Interest and Liabilities Adjustments**

Relief given to mortgagees under the Liabilities (War-Time Adjustment) Acts of 1941 and 1944 includes the important provisions in Section 7, that the Court may direct in the liabilities adjustment order that "interest in respect of any period, whether before or after the making of the order, shall either not be payable or be reduced to such rate, or amount as may be specified in the order." The construction to be placed upon this proviso had to be decided by the Court of Appeal in the case of *Re Ginger*. Mrs. Ginger, a widow whose husband died in 1946, had bought a house before the war for £600, obtaining an advance from a building society of £565, repayable as to principal and interest by monthly instalments of £4. These were paid regularly until 1940, when the house was destroyed by an enemy bomb. The balance then due under the mortgage was £340. Normal payments were resumed in 1943, and continued until September, 1946, the date of the liabilities adjustment officer's first report, when the amount due was £245. In August, 1946, a protection order was made. The County Court Judge made an order adopting Mrs. Ginger's proposal whereby the mortgage should be varied by the elimination of interest payable by her from the demolition to the date of the house's re-erection and re-occupation by her, and that from September, 1940, all moneys paid by her to the society should be applied in reduction of the principal. The building society argued that, as everything had been paid under the mortgage deed which was due to October 31, 1946, the County Court Judge had no power at that date to reopen the question of past payments, or to turn past payments of interest into repayments of principal against the wishes of the society as mortgagees. The Court of Appeal unanimously held that the Act did not give the Court power to vary a mortgage deed so as to affect payments which had previously been properly made under the deed. The proviso was concerned with payments of interest due which had not been made before the date of the Court's order. The whole object of the Acts was to provide in favour of the debtor with regard to debts which had accrued and would accrue in the future. The order would be varied accordingly, and to that extent the appeal succeeded. But the Court rejected the society's contention that Mrs. Ginger's financial difficulties were not due to war circumstances.

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## WAGES, PRICES AND PROFITS

One of the results of maintaining full employment of labour is that only regulation by the Government or restraint by the Trades Unions can prevent a wages inflation. When the fear of unemployment is removed, the bargaining power of labour is so enhanced that demands for increased wages can with difficulty be resisted by employers. During the last seven years, this is the situation which has obtained in the United Kingdom. The continual upward movement of wages thus produced has contributed to a general price rise which monetary policy, especially since the war, has still further aggravated. It has been necessary to continue taxation at high rates, yet on any rise in the cost of living, which indirect taxation obviously produces, further wage claims ensue.

In these circumstances, the Government could only aim at bringing about a change of attitude on the part of the Trades Unions by convincing the workers as a whole of the inflationary and self-defeating effects of their existing policy and by offering, if a standstill were voluntarily applied to wages, to ensure that other kinds of incomes did not thereby obtain an advantage. It is this that the Government have now attempted, in the policy laid down in the recently issued *Statement on Personal Incomes, Costs and Prices*.

In this document the Government state that if the "undesirable necessity" of direct Government regulation of all incomes is to be avoided, there must be no increases in wages, except where needed to attract workers to the under-manned industries, or where accompanied by a corresponding expansion of production. At the same time, "there is no justification at the present time for any rise in incomes from profits, rent or other like sources." In fact, as subsequent events have made plain, the Government aim at a reduction of profits.

It is encouraging that the General Council of the Trades Union Congress, faced with the challenge of this *Statement*, has reached decisions which on its own initiative it could never have reached. It has agreed to endorse the Government's policy as contained in the *Statement*. It has yet to be seen whether individual Trades Unions will follow the Trades Union Congress in this lead, and there is a possibility that some at least of them will be unwilling to do so. But the decision of the Council, on which most of the important Trades Unions are represented, cannot lightly be disregarded.

The Government and the Trades Union Congress

regard a reduction of profits and prices as a necessary corollary of the stabilisation of wages. It is clear, indeed, that if the upward movement in prices continues, in the face of a newly won Trades Union restraint in demanding wage increases, then that restraint will be very short-lived.

As an immediate step, the Government has laid down a ceiling, at the level which ruled in the two months ending January 31, 1948, on the prices of all goods coming within the price control machinery, and has prescribed distributors' margins for those goods. Further, the practice of the price-controlling departments will in future be to disallow in costs any element due to increases in wages, unless within the exceptions allowed for in the *Statement*.

As a more permanent policy, the Federation of British Industries, acting with the Association of British Chambers of Commerce and the National Union of Manufacturers, has agreed to suggest, within a month, a scheme for an all-round reduction in prices. The Joint Standing Committee of Wholesale Distributors, the Retail Distributive Trades Conference, and the Co-operative Congress are conducting a similar study on the side of distribution. The time-limit is evidently related to Budget necessities.

The immediate action to be taken under this plan contains the obvious danger that since price control applies only to the more essential goods, the existing unbalance in the economy, with resources being attracted in undue measure to the unessential industries, will be exaggerated. Much will, therefore, depend upon the proposals now being worked out by the Federation of British Industries and the other organisations mentioned, whose task is not only to secure price reductions, but also, in some way, to ensure that they apply as widely as possible and thus correct the present unbalance. To be effective the proposals will not stop at the limitation of dividends or an increase in the profits tax, though either or both of these steps may be expected as complementary measures in the Budget. Indeed, it is difficult to see how any scheme for limiting prices can be comprehensive enough to allow budgetary measures to be dispensed with, and these measures must clearly operate through restriction on all profit margins. Even though the increase in total profits has been much less marked than that in wages, it is an inescapable part of the general policy that profits should be limited. Moreover, it may well prove impossible to produce the desired results without some overall reduction in money supplies. No doubt price and profit limitation is likely to be more amenable to consciously controlled effects than credit restriction, but no example so far exists of its being equally efficacious.

The suggestions of the Federation will be awaited anxiously by business. But the urgency of the present situation is generally appreciated and the Government may be assured of co-operation in its general policy of keeping down costs, prices and profits. The detailed proposals, when known, will require careful study. In a more restricted field, they will certainly closely concern accountants, whether in practice or in industry, and the profession is likely to find further responsibilities placed upon it.



# The Use of Accounts in Management\*—II

By R. E. YEABSLEY, C.B.E., F.S.A.A.

## Aspects of Accounting Control

The problem now before us can, I suggest, be divided into the three following headings:

- (1) what information should be provided?
- (2) how should the information be presented?
- (3) to whom and when should it be available?

Dealing with the first of these—namely (1) what information should be provided? :

It is clearly impossible within the scope of such a paper as this to give in detail all that should be provided in all businesses, in all circumstances and to all concerned, but the following headings indicate the major forms of control with which the accountant is concerned in his task of assisting management :

- (a) production control ;
- (b) quality control ;
- (c) stock control ;
- (d) sales control ;
- (e) finance control.

Each of these headings will on reflection bring to mind, and practice will most certainly provide, the substance or purpose of statements necessary to focus attention on the salient features. It is considered that the following examples are important :

### Materials

Consumption compared with stock and orders placed for future supplies ;  
Consumption compared with standards.

### Production

Appropriate process accounts giving costs and standards ;  
Quantities produced appropriately analysed compared with :

- (a) standards ;
- (b) sales ;
- (c) stocks.

In regard to (a) this will involve not only a consideration of actual output with standard output, but also a breakdown, possibly to machines, of the items produced. In this connection it may well be necessary to consider and give particulars of machine speeds, hours worked, defective machine running, and the like.

As to fuel and power, a statement of consumption and standards should be prepared to give appropriate information not only as to usage by weight or volume, but also in detail in regard to the more technical aspects of pressure and such factors.

### Quality

The record of production of "seconds" and sub-standard articles is one aspect of the control of quality. Some other aspects are dealt with under other headings, and while the accountant's concern with quality control may not be a direct one, it is an important aspect of production control and sales volume maintenance.

### Stock

Stocks need to be dealt with *inter alia* by way of :

- (a) A comparison with orders and deliveries ;
- (b) An analysis of stock by reference to time in store.

### Sales

A comparison of sales appropriately analysed compared with

- (a) orders ;
- (b) deliveries ;
- (c) production ;
- (d) standard.

### Finance

A comparison of appropriate analyses of receipts and payments, income and expenditure with budgets.

### Overheads

You are all doubtless familiar with the so-called "break-even charts" which provide an analysis of sales at differing levels and show where all non-variable costs are covered, but while extremely interesting they must be used with care. For example, the sales of a business concerned with the distribution of goods of its own manufacture and other goods will require to see to it that the gross margin, *i.e.*, sales less prime cost thereof, covers all overheads, it being remembered that the margin on the factored goods will not provide cover for manufacturing overheads.

This study of the impact of overheads requires the proper classification and consequent analysis of expense and therefrom should be prepared statements showing in appropriate detail :

- (a) works overhead—sub-divided where necessary to cost centres, departments or factories ;
- (b) administration overhead ;
- (c) distribution costs ;
- (d) selling costs.

I do not propose to discuss the somewhat controversial subject of the necessity or otherwise for the allocation of all overheads to products. I consider there is a great deal to be said for both points of view and that no positive answer can be given to cover all cases and circumstances. However, where such allocations are made and standard costs used, there is clearly the need for a statement of variances of overheads.

### Variances and Ratios

The use of stock control records and standard costs facilitates the preparation of the following statements :

- Costs of manufacture ;
- Statement of variances ;
- Trading results ;
- Financial position.

I have previously referred to the importance of comparing costs and results with standards and the noting of variances or differences which serve to focus attention where action may be necessary, but there are other relationships which are of value and which convey in a simple and direct manner certain features which may require attention or emphasis. I refer to

\* A lecture given to the Incorporated Accountants' London and District Society and London and District Students' Society on December 1, 1947.

the use of ratios and indices, but care and thought is required to see that the best method is adopted. The cases where ratios and indices may be used with advantage are many. In regard to the former there will readily come to mind "sales to debtors," "purchases to creditors," "total net assets to net current assets," and "sales expressed at cost to stock."

### Budgeting

Thus far only a passing reference has been made to budgets or forecasts, but these play a not unimportant part in management. I have referred to the use of standard costs and to statements of variances. This technique is similar to the necessary comparison of actual expense and results with budgets. The statements to which I have referred in discussing standard costs and variances should give particulars of the budgets alongside the actual figures.

Forecasting of profits for prospectuses is rightly no part of the function of the auditor or of the reporting accountant, but within a business it is part of the accountant's work to provide budgets where necessary. It is here where the closest co-operation with technical executives is necessary, together with a clear lead from the managing director or chief executive. The budgets should be prepared with these directions and knowledge as a basis, together with past knowledge available from the accounts and statements of actual results and similar information for previous periods. Wherever possible it should be made clear to those concerned with the study of the budgets the assumptions on which they are prepared and any inherent and known weakness of a material nature.

The use of budgetary control has increased to a substantial extent in recent years and with it the technique of its application has developed. During the course of my remarks I have indicated certain of its features and with the complete integration in the accounting system of costing and financial accountancy the necessary records, analysis and checks are present to provide much of what is necessary for the use of this technique.

Before dealing with the next heading, there are two features I feel might with advantage be touched upon at this time:

*Firstly*, the effect of production by overtime and shift work on volume and cost is one which will often warrant very careful study.

*Secondly*, the study of marginal costs at differing levels of activity. I am extremely doubtful if this subject of marginal costs has received anything like the thought it deserves.

### Presentation of Data

The second of the three aspects to which I have referred was "how should the information be presented?" The statements should be prepared with three criteria in mind, namely, clarity, certainty and brevity. The degree to be attained in the last two criteria will be governed by the purpose of the statements and the time available to the persons to whom they are presented. A great deal of the value of excellent work by accountants is lost by the lack of the art of presentation. The busy executive requires the salient figures, not a mass of detail. The latter should be available for others concerned with

it, but a well-drawn statement giving appropriate emphasis will be appreciated by all. The vertical form of presentation with comparative figures has often many advantages and the information normally given in account form can often be given in the form of pictograms and graphs to bring out certain salient features. In this connection you will doubtless have noted with interest such statements as:

- (a) the division of a £ unit of sales down to the dividend to the shareholder;
- (b) how the local rate is spent;
- (c) the breakdown of costs to primary raw materials of the retail price of a man's suit.

I have referred to the desirability of clarity, certainty and brevity and these should each be obtained in the greatest measure. While certainty should not be sacrificed for brevity and *vice versa*, a due sense of proportion is necessary. It is here where the subject of approximations should be considered and applied. The use of three significant figures in a result may well prove sufficient for many purposes, but clearly the number to be used is that necessary, but only that necessary, to appreciate the import of the statement.

### Recipients and Timing of Statements

Lastly, one considers to whom and when should the information be given. The accountant in his work in industry is part of a team and it is for him to service his colleagues with such material as is required. The extent of the detail must depend on the status and functions of the recipient, but it should only be such as is necessary. The periods should not be long but as short as practicable; they will differ according to the statement, but what is most important is that they cover a period of reasonable length ended in the immediate past. The receipt of elaborate statements and statistics is useless if they arrive too late for any effective action to be taken on them. They must be regarded as the means of providing news, not history.

### The Accountant's Responsibility

Throughout my remarks I have endeavoured to indicate the scope of the responsibility of accountants who are no less vitally concerned with the day-to-day running of businesses than the professional accountants are to report as auditors on a historical survey. The control of cost is at least as important as cost ascertainment, and the accountants must see to it that they play their part as executives or as advising practitioners in providing management with one of its essential tools.

Let us ask ourselves these questions. Are we properly equipped? Are our future members being sufficiently trained? If we find a negative answer, let us seize every opportunity to see that we and our profession are capable of filling the vital need of industry—if we are not, there must arise those who will. Surely with our training and skill we can ensure that we are not found lacking. What I have said has been mainly directed to industry, but in those other fields of management to which I have referred the same is true, so that our responsibility is indeed a national one.

(Concluded)



# Companies Act, 1947—VI. Prospectuses

By E. WESTBY-NUNN, B.A., LL.B., Barrister-at-Law

## Definition

By Section 380 of the Companies Act, 1929, a prospectus is defined as any notice, circular, advertisement or other invitation offering shares or debentures of a company to the public for sale or subscription; and all the statutory requirements of the Act concerning prospectuses are balanced on this definition.

An attempt is made by Section 68 of the Companies Act, 1947, to expound the definition by stating that any reference in the Acts to "offering shares or debentures to the public" shall, subject to any provision to the contrary, be construed as including a reference to "offering them to any section of the public, whether selected as members or debenture-holders of the company concerned, or as clients of the person issuing the prospectus, or in any other manner." The section goes on, however, to make it clear that this exposition does not require an offer or invitation to be treated as made to the public "if it can properly be regarded, in all the circumstances, as not being calculated to result directly or indirectly in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation, or otherwise as being a domestic concern of the persons making or receiving it."

To what extent all this alters the existing law is somewhat doubtful. It seems that, where an invitation to take up shares or debentures is made to a definitely limited class, e.g., to existing shareholders only, and the articles of the company impose restrictions on their right to transfer shares, the invitation need not be treated as a prospectus, i.e., it will still not be regarded as an invitation to the public; but it seems also that if, in such a case, the right to transfer the shares is not restricted, since it cannot then be said that the invitation is not calculated, directly or indirectly, to result in the shares becoming available for subscription or purchase by persons other than those receiving them, the invitation will be a prospectus and subject to the statutory requirements governing prospectuses.

## The New Provisions

These statutory requirements are at present embodied mainly in Sections 34 and 35 of the Act of 1929. Section

34 deals with the issue and filing of prospectuses; Section 35, together with the Fourth Schedule, deals with the contents of prospectuses. Section 34 is the subject of very minor modifications, and its main provisions remain unchanged; but Section 35 and the Fourth Schedule are very considerably altered by the Act of 1947.

In the first place, Section 64 of the Companies Act, 1947, excludes from the operation of Section 35 a prospectus or form of application relating to shares or debentures, which are or are to be in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a prescribed stock exchange. It must be observed that this species of prospectus is still required to be filed with the registrar under Section 34; but it need not comply with the statutory requirements as to the contents of prospectuses.

Having introduced this novelty, Section 64 goes on to state that, where it is proposed to offer any shares or debentures to the public by a prospectus issued generally (a new phrase defined by Section 59 as one issued to persons who are not existing members or debenture-holders of the company), and application is made to a prescribed stock exchange for permission for those shares or debentures to be dealt in or quoted on that stock exchange, the applicant may apply to the stock exchange for a "certificate of exemption," i.e., a certificate that, having regard to the proposals (as stated in the request) as to the size and other circumstances of the issue and to any limitations on the number and class of persons to whom the offer is to be made, compliance with the requirements of the Fourth Schedule to the Act of 1929 would be unduly burdensome. If such a certificate is given, and the proposals are adhered to, and the particulars and information required to be published in connection with the application made to the stock exchange are so published, then a prospectus in the form prescribed by the stock exchange regulations shall be deemed to comply with the requirements of the Fourth Schedule.

## Alterations in the Schedule

The alterations made by the Act of 1947 to the Fourth Schedule to the Act of 1929 are numerous, and are set out in Sections 61 and 62. The most important of them may be summarised as follows:

- (1) It is no longer necessary to include in the prospectus a copy of the company's memorandum.
- (2) Where material contracts have to be revealed in compliance with Clause 13 of Part I of the Fourth Schedule, it is no longer necessary to name a reasonable time and place at which the contracts may be inspected; but the general nature of the contracts must be stated, and a copy of each contract (or a memorandum giving full particulars if it is not in writing) must be endorsed on or attached to the copy of the prospectus filed with the registrar. These copies may be inspected; but only during the fourteen days beginning with the date of the publication of the prospectus, or with the permission of the Board of Trade.
- (3) Where the names, etc., of vendors of property have to be stated in compliance with Clause 8 of Part I of the Fourth Schedule, in addition to the particulars required by the Schedule, it will be necessary to include short particulars of any transaction relating to the property completed

This article is the sixth in a series on the Companies Act, 1947. The first, a general article on the Act, appeared in our issue of September, 1947, and subsequent articles have dealt with the following special aspects:—

- II. "Company Balance Sheet and Profit and Loss Account, etc.," by F. Sewell Bray, F.C.A., F.S.A.A., and H. Basil Sheasby, F.C.A., F.S.A.A. (October).
- III. "The Exempt Private Company," by E. Westby-Nunn, B.A., LL.B., Barrister-at-Law (December).
- IV. "Disclosure of Payments to Directors," by J. H. M. Clark, A.C.A. (January).
- V. "Meetings," by E. Westby-Nunn, B.A., LL.B., Barrister-at-Law (February).

The series will be continued in future months, and we hope to cover all important topics of interest to readers under the new Companies Act.

within the two preceding years in which any vendor or any person who is, or was at the time of the transaction, a promoter or a director or proposed director of the company, had any interest direct or indirect. But Clause 8 will not apply to property purchased in the ordinary course of the company's business where the contract was not made in contemplation of the issue, nor the issue in consequence of the contract.

- (4) In addition to the items listed in the Fourth Schedule, it will be necessary for the prospectus to state the time of the opening of the subscription lists, and the number, description and amount of shares or debentures which any person has, or is entitled to be given, an option to subscribe for, together with the particulars of the option which are set out in Section 61 (1) (b).
- (5) Finally, a number of modifications, additions and amendments are made to Parts II and III of the Fourth Schedule, which deal with certain reports by auditors and accountants.

As regards the report by the auditors of the company on the profits and rates of dividend of the company, the Act of 1947 extends the period to be covered by the report from three years to five years; makes it clear that, if there have been losses instead of profits, these must be revealed; and requires also a report on the assets and liabilities of the company at the last date to which accounts have been made up.

#### **Holding Companies and Acquisition of Businesses**

Section 62 (4) then goes on to deal with the case in which the company issuing the prospectus has subsidiaries. In this event, the auditors (the decision seems to rest with them) may either report on a consolidated account basis as regards profits and losses, or may deal with the separate profits and losses of the company and those of each subsidiary, or may deal with the profits and losses of the company separately and with those of all the subsidiaries combined. But the assets and liabilities of the company issuing the prospectus must be dealt with separately from those of the subsidiaries.

Similar changes are made by Section 62 in the regulations comprised in that part of the Fourth Schedule which requires a report by accountants where any part of the issue offered by the prospectus is to be applied in acquiring a business. The period covered by this report is extended from three to five years; losses as well as profits must be reported on; and also the assets and liabilities of the business to be acquired at the last date to which its accounts have been made up.

In addition, where the proceeds of the issue are to be applied, directly or indirectly, in any manner resulting in the acquisition of shares in any other body corporate, and by reason of that acquisition or anything to be done in consequence thereof or in connection therewith the other body corporate will become a subsidiary of the company, this is to be treated as an acquisition of a business by the company, and the report by accountants in the prospectus must indicate how the profits or losses of the other body corporate would, in respect of the shares to be acquired, have concerned members of the company, and what allowances would have fallen to be made in relation to assets and liabilities dealt with in the report, for holders of other shares, if the company had at all material times held the shares to be acquired.

#### **An Example**

This admittedly complicated piece of legislation can best be understood by taking an example of its operation. Suppose that A. Co., Ltd., is going to employ

the proceeds of a public issue of shares in order to acquire a business owned by X.; and suppose also that part of the assets of the business are 60 per cent. of the shares in B. Co., Ltd.: the remaining 40 per cent. being held by X., who is to retain this holding. In such a case, after the acquisition of the business, B. Co., Ltd., will become a subsidiary of A. Co., Ltd. The prospectus issued by A. Co., Ltd., must, therefore, contain a report by accountants (i) on the business, and also (ii) on B. Co., Ltd. Moreover, as regards B. Co., Ltd., the report must indicate how its profits or losses during the past five years would, in respect of the 60 per cent. of its shares to be acquired, have concerned members of A. Co., Ltd., and what allowances would have fallen to be made, in relation to assets and liabilities at the last date to which the accounts of B. Co., Ltd., have been made up, if A. Co., Ltd., had at all material times (*i.e.*, during the past five years and at the last date aforementioned) held the shares in B. Co., Ltd.

In addition in such a case, where the other body corporate (*e.g.*, B. Co., Ltd.) has subsidiaries, the report must deal with the profits or losses and the assets and liabilities of the subsidiaries as well as with those of the other body corporate.

#### **Accountants**

In connection with these reports by accountants, Section 62 (6) provides that they may be made only by accountants qualified under Section 23 of the Act of 1947 for appointment as auditors of a company which is not an exempt private company. They may not, moreover, be made by any accountant who is an officer or servant, or a partner of or in the employment of an officer or servant, of the company (the shares of which are offered by the prospectus), or of the company's subsidiary or holding company or of a subsidiary of the company's holding company. By way of interpreting this requirement, the section adds that, for this purpose, a proposed director is deemed to be an officer; but an auditor is not. The report may, therefore, be made by the company's auditor.

#### **Allotment**

Where a prospectus has been issued generally, no allotment may be made until the beginning of the third day after that on which the prospectus is first so issued or such later time, if any, as may be specified in the prospectus. In construing this requirement of Section 59 of the Act of 1947, it is important to note that Section 34 of the Act of 1929 states that the date borne by the registered copy of the prospectus shall, unless the contrary is proved, be taken as the date of "publication." On the other hand, Section 59 (2) of the Act of 1947 states that, if the prospectus is issued as a newspaper advertisement, the day on which it is so issued is to be the day of issue for the purpose of determining when allotments may be made; and that, if it be not so issued as a newspaper advertisement before the third day after that on which it is issued in any other manner, the actual day of its first issue is to be taken as the day from which the date for allotment may be calculated. It seems, therefore, that the day of first issue is not to be determined by the date of the registered copy. It should be noted also that in reckoning the third day after the day of first issue, any intervening day, which is a Saturday or Sunday or a bank holiday in any part of Great Britain (New Year's Day is a bank holiday in Scotland!) shall be disregarded, and, if the third day (as so reckoned) is itself a Saturday or Sunday or such a bank holiday, the allotment may not be made until the first day thereafter which is none of them.



# Trusts for Conversion

By C. L. LAWTON, M.Sc., Barrister-at-Law

## Introduction

The rule in *Howe v. Lord Dartmouth* (1802) has been variously stated and, as it is now understood, is a good deal broader than the facts of the case in which Lord Eldon gave a decision in 1802. Perhaps the best approach will be to distinguish between (i) authorised and (ii) unauthorised securities forming part of a residuary bequest of personal estate left to be enjoyed by persons in succession. In the case of authorised securities the life tenant is always entitled to the income *in specie* and authorised securities may be those authorised by Section 1 of the Trustee Act, 1925, or by the testamentary disposition of the deceased. The means by which a testamentary disposition converts what would otherwise be unauthorised into authorised securities is by the use of apt words authorising the personal representatives to retain them in their existing state.

If however there are securities which are authorised neither by the will nor by law three different possibilities exist. First, there may be an express trust for sale. This is very commonly found in a well-drawn will. Again it is a matter of words. If the will is examined and it is found that the personal estate is to be held by the trustees on trust to call in, sell and convert such part as may not consist of money into money there is an express trust for sale. Secondly, there may be an implied trust for sale. Especially in the case of home-made wills it is found that the will is regarded merely as a means of indicating the dispositions which the testator desires to make, and it may well be that the assets of the deceased are not such as to be likely to enable the trustees to carry out the wishes of the deceased. Thus arises the strict rule in *Howe v. Lord Dartmouth*, for it is a conversion of unauthorised securities not in pursuance of an express trust for sale but because conversion is presumed by a Court of Equity to have been intended by the testator in order that the residuary personal estate may be put into such a state that it may be continuously enjoyed—by those entitled to limited interests for their duration, and by those entitled to remainder after the limited interests have ceased. Thirdly, there may be a statutory trust for sale, as for example in the case of an intestacy under Section 33 of the Administration of Estates Act, 1925.

## The Express Trust for Sale

In the case of an express trust for sale there may be a clause specifically providing that the life tenant is to have the income as well from the unauthorised as from the authorised securities until conversion. In that case the provisions of the will exclude any question of apportionment. If the will contains no provisions as to income and no power to postpone but does contain a trust to convert the case will fall within *re Fawcett* (1940). There Farewell, J., gave elaborate directions to the following effect:

- (a) The life tenant should receive interest at the rate of 4 per cent. less tax;
- (b) The interest should be calculated on the value of the unauthorised securities taken as a whole one year after death;
- (c) It should be payable out of the actual income received;
- (d) But if the actual income should be insufficient then the amount due to the life tenant might be made good—
  - (i) Out of *future* income (but not past accumulations); or

- (ii) *future* sales of unauthorised securities (but not past sales).

In the recent case of *In re Parry* (1947) there was again an express trust for sale but this time there was a power to postpone in the "uncontrollable discretion" of the trustees. In *re Fawcett* (above) it had been more than once observed that there was no power to postpone and it remained therefore a rather open question whether the administrative directions would apply where such a power was included in the will. Would it be the case that the whole of the income till conversion would accrue to the tenant for life or would the tenant for life be entitled to income based on a certain percentage, not of the value one year after death but of the value at death? After an elaborate review of past decisions Romer, J., took the true doctrine to be through *Gibson v. Bott* (1802) and *Brown v. Gallatly* (1867): the point that a power to postpone excluded the possibility of an apportionment was concluded so far as a Court of First Instance was concerned and it remained therefore for him to decide what basis of apportionment should be followed. The point of the decision seems to be this: that it is not the presence of a power to postpone but the nature of the unauthorised security which determines when that power is properly exercised. Where there is nothing to prevent realisation within the executor's year the proper value to take is that one year after death, there being by that time a "notional" conversion. On the other hand where the circumstances are such as to require a "cautious" conversion in the interest of the estate as a whole there is no period within which conversion ought to occur and therefore no "notional" date. Hence the value should be the value at the date of death.

Before leaving the express trust for sale the special case of leaseholds should be noticed. It was decided in *re Brooker* (1926) that as leaseholds are "land" within the meaning of Section 205 (1) ix of the Law of Property Act, 1925, Sections 28 (2) and (5) of the same Act apply, whence the tenant for life becomes entitled to the whole of the net rents until sale if he will be entitled to the whole of the income from the invested proceeds of sale. This, in spite of common statements to the contrary, is scarcely the same thing as saying that *Howe v. Lord Dartmouth* does not apply to leaseholds. Accuracy is important. It may be said that the analogous rule to *Howe v. Lord Dartmouth* in the case of an express trust for sale does not apply to leaseholds because it is displaced by a *statutory* rule that there shall be no apportionment of income.

## The Implied Trust for Sale

For most purposes there is not much difference between the express trust for sale and the implied trust for sale so far as the apportionment of income is concerned. In practice it will probably be found that while with an express trust for sale there may be words from which an intention to give the income *in specie* to a life tenant can be inferred, words having such an effect where there is no such express trust will be rare. There may however be an exclusion by implication where, although there is a residuary bequest of personal estate to persons in succession, taking the whole of the will together, there is evidence of an intention to create a settled legacy. So in *re Barratt, National Provincial Bank v. Barratt* (1925) a testator bequeathed the whole of his property (which included property of a wasting, hazardous or reversionary nature) to his wife for life

and thereafter to be divided into portions amongst his children and grandchildren. It was held that there was evidence of an intention to exclude the rule in *Howe v. Lord Dartmouth*. The real importance however of distinguishing between an express and an implied trust for sale arises in the case of leaseholds. Formerly, it was certainly the case that the rule applied. Now it is generally said that it does not apply. Yet there is no decision precisely in point. The alternative possibilities which in legal circles are thought to exist are either that there will be an implied trust for sale (i.e., *Howe v. Lord Dartmouth* will in principle be applied, though it is a further question whether there would be an apportionment out of rents or the life tenant would on analogy with Section 28 of the Law of Property Act take the whole of the rents till sale) or that there will not. If there is no implied trust for sale presumably the leaseholds will be vested in the tenant for life as in land under a strict settlement under the Settled Land Act, 1925.

### The Statutory Trust for Sale

Finally, there is the statutory trust for sale under Section 33 (1) of the Administration of Estates Act, 1925. The case is of such importance that the subsection is set out in full:

"Section 33 (1). On the death of a person intestate as to any real or personal estate, such estate shall be held by his personal representatives—

- (a) as to the real estate upon trust to sell the same; and
- (b) as to the personal estate upon trust to call in, sell and convert into money such part thereof as may not consist of money,

with power to postpone such sale and conversion for such a period as the personal representatives without being liable to account may think proper and so that any reversionary interest be not sold until it falls into possession unless the personal representatives see special

reasons for sale and so also that unless required for purposes of administration owing to want of other assets personal chattels be not sold except for special reason."

It is necessary to ask what bearing this statutory trust for sale has upon the express and implied trusts already considered. As to the express trust for sale it has been held in *re McKee, P. T. v. McKee* (1931) that on a partial intestacy an express trust for sale will supersede the statutory trust for sale. As to the implied trust for sale under *Howe v. Lord Dartmouth*, it appears that the equity to convert will be displaced by the statutory trust. Where the section applies, there will neither be a conversion under *Howe v. Lord Dartmouth* nor will there be an apportionment under *Howe v. Lord Dartmouth* because Section 33 (5) provides that the income, however the estate may be invested, shall be treated and applied as income. Incidentally it may be noted that a clause of this character is very often inserted in wills where it is desired to exclude the apportionment of income which, either under *Howe v. Lord Dartmouth* or the analogous rule in the case of an express trust for sale, would otherwise occur.

As was noted in the comment on *re Fisher* (1943) in the June, 1947, number of ACCOUNTANCY (page 125) it is unsafe to say that *Howe v. Lord Dartmouth* does not apply in the case of an intestacy. It may be said that where Section 33 of the Administration of Estates Act, 1925, applies, *Howe v. Lord Dartmouth* does not apply, but this leaves open the inherent equity of conversion under that rule in any case which is not covered by the statutory provision and, as *re Fisher* shows, such cases may still arise.

It is hoped in a subsequent article to deal with the case of *re Chesterfield's Trusts* which has received consideration in recent decisions and which, like the parent rule in *Howe v. Lord Dartmouth*, has been affected by the statutory trust for sale.

## TAXATION

# Capital Expenditure

## Two Views on Repairs

The Income Tax Act, 1945, brings into a new focus the nature of capital expenditure.

Part I gives relief for capital expenditure on the construction of a building or structure; Part II for capital expenditure on the provision of machinery or plant; Part III for capital expenditure in connection with the working of mines, etc.; and Part IV for capital expenditure on the construction of farm buildings, etc.

In general, we therefore start with the proposition that expenditure cannot qualify for the reliefs in question if it is allowable as an expense in arriving at the profits of the trade or business, or would qualify for maintenance relief under Schedule A. If expenditure charged to repairs is disallowed as not being of a revenue nature, it is *prima facie* because it is of a capital nature. It is then necessary to see whether it falls within the provisions of the Act as on construction in Parts I, III and IV, or provision in Part II.

Experience of the working of the Act shows that most Inspectors of Taxes adopt the spirit of the relief and recognise that expenditure which is disallowed from repairs is so disallowed because of its capital nature, and do not seek to pare down the relief. In a recent instance, however, a new argument has been raised under Part IV, where a farmer acquired his house and land and spent a large sum on bringing the buildings, etc., up to date.

Quite apart from the obvious capital expenditure on

additions and improvements, the accountants in their computations added back much of the expenditure which would have ranked as repairs if the property had not been recently acquired, as being of a capital nature by reason of the principle stated in the *Law Shipping* case (12 T.C. 621), viz.: "The cost of initial repairs to a ship purchased in a state of disrepair is just as much capital expenditure as . . . if the work had been executed by the seller and the cost added to the price of the ship."

The Inspector now takes the line that: "This is expenditure which would be proper to a maintenance claim as the *Law Shipping* case has no relevance to claims under Rule 8, No. V, Schedule A. The expenditure has the character of 'ordinary repairs' and is only disallowable because those repairs were outstanding when the property was acquired. Had these been done by the vendor—and possibly an enhanced price been paid for the property by the purchaser—it would have been 'allowable trading,' that is revenue, expense of the vendor," and that: "The decision in the *Law Shipping* case was under Rule 3, Cases I and II, Schedule D. Under Section 33, Income Tax Act, 1945, the vital requirements are that the expenditure shall be:

- (a) A capital disbursement.
- (b) On the construction of farm houses or other works, and



- (c) Not such as would be allowable under Rule 8, No. V, Schedule A, that is not of the nature of a repair or replacement. The *Law Shipping* decision has never been applicable to a claim under Rule 8. . . ."

As the case in question is still not settled we do not propose to discuss these arguments in this issue, but

are setting them out for the consideration of readers who may be interested. The accountants in question are somewhat mystified by the *volte face* on the *Law Shipping* case, particularly as they have agreed relief in other districts on similar facts. If any readers have had a similar experience, we shall be interested to have their comments.

## Taxation Notes

### Profits Tax

With reference to the note on page 12 of our issue of January, 1948, the hope was expressed that the Revenue would adopt the simpler view of calculating net distributions where directors' remuneration has to be restricted and there is franked investment income. It is now understood that they do so, a decision that will be welcomed.

The following illustration shows the effect of the procedure:

Director-Controlled Company		£
Profits including all investment income		16,000
Add Directors' Remuneration charged in accounts...		5,000
		21,000
Deduct Franked Investment Income ...		1,000
		20,000
Deduct Maximum Directors' Remuneration, 15 per cent. ...		3,000
		17,000
Gross Distribution:		
Dividends ...		10,000
Excess Remuneration ...		2,000
		12,000
Net Distribution		17,000
$\frac{17,000}{17,000 + 1,000} \times £12,000$ ...	=	£11,333
Profits Tax payable:		
25 per cent. on £17,000	=	£4,250 0 0
Less Non-distribution relief, 15 per cent. on (£17,000 — 11,333) ...	=	850 1 0
		£3,399 19 0
[Being 10 per cent. on £17,000 =		£1,700 0 0
plus 15 per cent. on £11,333 =		1,699 15 0
		£3,399 15 0]

### Profits Tax and Commission

Now that profits tax is a serious impost, many companies are considering the effect on commission agreements. Unless there is an express provision in the agreement to the contrary, profits tax is deductible before calculating commission (*L. C., Ltd. v. G. B. Ollivant, Ltd. (1944) 23 A.T.C. 54*).

Despite the difficulties in calculations, it is likely that many future agreements will provide for the deduction of profits tax before calculating commission. This is troublesome, particularly in the case of director-controlled companies. The following specimen may be useful:

Director controlled company, paying a dividend of £25,000. Let C = Commission at 10 per cent. payable to a director (not whole time).

Profits ...	£100,000 — C	
Add Directors' Remuneration ...	12,000 + C	
	112,000	
Deduct Maximum Directors' Remuneration, 15 per cent.	16,800	
	95,200	
P.T., 10 per cent. on £95,200 ...	£9,520	
15 per cent. on £25,000 (Div.) ...	3,750	
	£12,000 + C — 16,800 (Directors' Remuneration)	— 720 + $\frac{1}{10}C$
		£12,550 + $\frac{1}{10}C$
C = $\frac{1}{10} (£100,000 - £12,550 - \frac{1}{10}C)$		
C = £8,615		
Proof		
Profits ...	£100,000	£100,000
Commission ...	8,615	
	91,385	
Add Directors' Remuneration, £12,000 + £8,615 ...	20,615	
	112,000	
Maximum 15 per cent. ...	16,800	
	95,200	
P.T., 10 per cent. on £95,200 =	£9,520	
15 per cent. on £25,000 =	3,750	
15 per cent. on (£20,615 — £16,800) ...	572	
		13,842
		86,158
Commission at 10 per cent. ...	£8,615 16 0	

Once the general idea is grasped, it is not difficult to adapt for franked investment income, abatement, etc. In the above, it is apparent that the maximum remuneration is less than the actual; in some cases this can be found only by trial.

### Valuation of Shares in Controlled Companies

In valuing shares under the Finance Act, 1940, Section 55, and in valuing the net assets under Section 50, it should be noted that no deduction can be made for the Schedule D income tax for the year commencing on April 6 following the death, although it is now accepted practice to provide for that tax in the balance sheet laid before the shareholders. This was approved by the Court in *Re Duffy; Attorney-General v. Lakeman* on October 30, 1947, reported at length in our last issue (page 36). The case may go to appeal. It is noteworthy, however, that in that case the Commissioners had allowed a deduction for the whole of the 1942-43 liability, although the death occurred on June 24, 1942. It was the 1943-44 liability that was not admitted; the

future liability, although computed by reference to the profits of the year of death, was not even an accruing liability and was strictly payable out of future profits. In contrast, under Schedule A, the liability accrues from day to day and is, therefore, apportioned to the date of death.

#### Plant in Use

The provisions of Section 16 (1), Income Tax Act, 1945, that "the machinery or plant in use at the end of the basis period shall . . . be taken to be the machinery or plant used for the purposes of the trade during the year (of assessment)" seems to have given rise to some misunderstanding. Some readers have regarded this as authority for claiming, in the case of a new business, a full year's wear and tear even if plant has only been bought a few days before the end of the year. In our view, there is no foundation for such a claim. It has always been recognised that for the purposes of Rule 6 (Cases I and II, Schedule D), in the case of a new business, wear and tear allowance can only be claimed for the period from the date of purchase to the end of

the year of assessment, and it seems to us that Section 16 leaves this unchanged.

As soon as the basis period is the preceding year, there are no difficulties except that there appears to be no way of claiming any relief on plant bought and sold in the same basis period, as it was not in use at the end of the basis period.

#### The Herd Basis

It appears that certain conventions are to be permitted by the Inland Revenue in order to smooth out the difficulties of the herd basis. In addition to the formula of taking market value less 25 per cent. as the cost of an animal bred (reported on page 35 of our February issue), it is now said that the Revenue are prepared to agree a "standard cost" per month in the case of calves reared to maturity.

We deprecate that it is necessary to glean such information here and there; an official notice ought to be given, as farmers and their advisers are finding it difficult to arrive at a decision whether or not to claim the basis, in view of the many grounds for argument that can arise. As the claim must in most cases be made by April 5, 1948, it has some urgency.

## Recent Tax Cases

By W. B. COWCHER, O.B.E., B.Litt., Barrister-at-Law

*Income-tax—Farming—Land containing woodlands and garden as well as farm land—Annual value of farm land under £100 per annum—Total value of holding over £100 per annum—Whether total value divisible—Whether profits assessable under Case I of Schedule D or under Schedule B—Income Tax Act, 1918, Schedule B, Rules 7, 8—Finance Act, 1941, section 10-11—Finance Act, 1942, section 28 (1).*

*De Poix v. Chapman* (K.B.D., October 29, 1947, T.R. 399), dealt with an interesting point in connection with the assessment of farming profits. By section 28 (1) of Finance Act, 1942, where the total annual value of the farming and market land of an individual does not exceed £100 the provision of section 10 of Finance Act, 1941, whereby the profits are assessable under Sch. D in lieu of Sch. B was not to apply. Appellants in the case occupied a farm which they rented from their mother at £105 per annum, the whole area comprising 108.152 acres. Of this area 86.241 acres were farm land, 19.287 acres woodlands—marsh land planted with willows—and 1.805 acres of kitchen garden. The General Commissioners had found that the 19.287 acres of woodlands were not occupied for purposes of husbandry. The garden, also, they found was not occupied for purposes of husbandry but was in fact used for the production of fruit and vegetables for appellants, their families and friends, any surplus being given to a hospital. The gardener's wages had not been charged to the farm account, but the rent for the whole area of farming land, woodland and garden had been charged to the farm accounts. By Rule 7 of Sch. B, woodlands, in the absence of election to the contrary, were charged under that schedule, a provision retained by section 28 of Finance Act, 1942. The General Commissioners had decided in favour of the Revenue, but Atkinson, J., reversed their decision.

He said they seemed to have thought that if a man had 1,000 acres and 550 acres were farmed, whatever use was made of the other 450, they must all be treated as farm land because more than one half of the whole was farmed. In *Bomford v. Osborne* ((1942), A.C. 14, 23 T.C. 642), the question of severance had been very

fully dealt with; and that case, to his mind, made it quite clear that the appellants were entitled to have the three different plots separately assessed. After quoting extensively from the judgments in that case he stated:

"It seems to me that those opinions establish that in a proper case a holding can be divided into two or more portions, and ought to be so divided if different rules are applicable for assessment to tax; but there must be definite separation . . . and there must be a certain permanence of purpose and use to which the severed portion is put. . . ."

"The garden was not even touching any part of the rest of the farm; it is shown as a green patch on the map quite distinct from the farm; and the woodlands had such clearly defined boundaries that there has been no difficulty in getting absolutely accurate measurements."

The definition of "farm land" in section 10 of Finance Act, 1941, refers to land "wholly or mainly occupied for the purposes of husbandry"; but this term may have a meaning not referred to in the case, one having no reference to division of area. As is well known, in many a "home farm" the purposes of husbandry are in conflict with others of a quite different nature.

*Sur-tax—Settlement—Covenant to pay annually such a sum as after deduction of tax would leave a sum equal to net amount of dividends received from a company—Settlor in control of company—Whether terms of settlement such that settlor could revoke or otherwise determine it—F.A., 1936, Section 21—F.A., 1938, Section 38.*

The issue in *Wolfson v. C.I.R.* (K.B.D., June 6, 1947, T.R. 237) was, technically, an interesting one. The Crown's case was that, while on the face of it the settlement was innocuous, nevertheless the settlor had seven-tenths of the shares in the company. He could prevent the payment of any dividend, let the profits of the company accumulate, and then with the help of one brother, could wind up the company, when seven-tenths of the assets would come to him as capital. Unfortunately, however, for the Crown, Sub-section (1) of Section 38 of F.A., 1938, commences with "If and so



long as the terms of any settlement are such that," whilst Sub-section (2) commences with "If and so long as the terms of any settlement are such." Atkinson, J., in reversing the Special Commissioners' decision, said that the Crown was in effect asking that the words used in Sub-sections (3) and (4) "in any circumstances whatever" should be read into Sub-sections (1) and (2). His judgment is an acute review of the legal position resultant from the decided cases; but its effect will hardly be welcome to the Revenue.

*Income-tax—Schedule A—Requisitioned property—Compensation rent assessed by Inspector as if gross rent subject to repairs allowance, although cost of repairs borne by military authorities—Additional assessments made for 1940-1 to 1945-6 whereby gross assessment increased and repairs allowance given upon increased value—Whether additional assessments competent—Discovery—I.T.A., 1918, s. 125.*

*Commercial Structures, Ltd. v. Briggs* (K.B.D., October 30, 1947, T.R. 405) is a case which will make legal history if either party to it is willing to face the cost of an appeal to the House of Lords. It is a dispute as to the legal content of the word "discovers" in Section 125 of the Income Tax Act, 1918—whether a change of opinion upon the part of an Inspector of Taxes without any new facts to explain it constitutes a "discovery." The present position of this old problem is that in *Williams v. Grundy's Trustees* (1934, 1 K.B. 525, 18 T.C. 271), Finlay, J., decided in favour of the Revenue, and maintained this view in *British Sugar Manufacturers, Ltd. v. Harris* (1938, 2 K.B. 220, 21 T.C. 528). When the latter case went to the Court of Appeal the present point was fully discussed, but the Court decided the case against the Crown upon a previous point, although it indicated that it was also against the latter upon the "discovery" point. Nevertheless, at the request of the Attorney-General, it refrained from formal judgment upon it. Six months later, the same point came before the Court of Session in *C.I.R. v. Mackinlay's Trustees* (1938, S.C. 765, 22 T.C. 305), where the Scottish judges were unanimous, in a clear case, that a change of opinion was a "discovery" despite the fact that, as appears from the judgment of Atkinson, J., in the present case, they had the Court of Appeal's view brought to their notice.

The judgment of Atkinson, J., is a useful exposition of the history and present position of the problem. As he felt himself bound by the decisions of Finlay, J., and the Court of Session, he had to decide in favour of the Revenue. It is very desirable that the point should be finally disposed of, and it appears to the writer to be almost equally so that the opinion of the Court of Appeal should prevail. The fact that a change of opinion with no basis in new facts will often entitle the Revenue to make additional assessments covering seven years in all may be seriously oppressive.

*Schedule E—Managing director—Right to commission based on distributed profits—Conservative financial policy of directors—No profits distributed—Right to commission cancelled in return for lump sum—Whether lump sum remuneration.*

In *Bolam v. Muller* (K.B.D., November 5, 1947, T.R. 413) respondent was managing director of a company under a service agreement from June 30, 1937, for seven years, whereby he was entitled to an inclusive salary of £2,000 per annum, and to a commission upon, and varying with, the distributed profits of the com-

pany. The directors of the company pursued a conservative policy and, in 1942, when his agreement had two years to run, respondent drew attention to the fact that, although the trading results justified the payment of dividends, the fact that none were being paid meant that the commission clause of his agreement was inoperative. He finally agreed to accept £1,250 as compensation for the surrender of his rights to commission under his agreement, and the question was whether the amount was taxable. The General Commissioners had found that it was not; but their decision was reversed by Atkinson, J.

He held that the £1,250 was remuneration in another form, and based his judgment upon *Prendergast v. Cameron* ((1940) A.C. 549, 23 T.C. 122) and *Wales v. Tilley* ((1943) A.C. 386, 25 T.C. 136), refusing to enter into a disquisition on *Hunter v. Dewhurst* ((1932) 16 T.C. 605), a case upon which respondent's case was largely rested.

*E.P.T.—Pawnbroker—Proceeds of unredeemed pledges—Whether profits on sale becoming property of pawnbroker are trade receipts—Whether sums held at call of customer are trade receipts—Pawnbrokers Act, 1872, Sections 16-19.*

*C.I.R. v. Jays The Jewellers, Ltd.* (K.B.D., November 7, 1947, T.R. 419) was a case which had some interesting features. The problem was whether certain profits arising to a firm of pawnbrokers were liable to Excess Profits Tax, and, if so, upon what basis. Under Section 16 of the Pawnbrokers Act, 1872, pledges have to be held for twelve months and seven days. If not redeemed by then, the position depends on the amount of the loan. If 10s. or less, the pledge becomes the property of the pawnbroker. If more than 10s., he is entitled to sell, but the proceeds, less the amount of the loan, interest and costs, belong to the pledger. Subject to the terms of any special contract, permitted where the loan is over 40s., at any time within three years of the sale, the pledger has a right to inspect the pawnbroker's books and demand payment of any surplus. After three years, the latter belongs to the pawnbroker. For loans over £10, the borrower's right to any surplus is not barred until the end of six years, the ordinary limitation period. Two classes of surplus were present in the case, where the three-year period applied, and where it was six years. For the Crown it was claimed (1) that the surpluses were ordinary trade receipts at the time of sale, any payments to the pledgers being ordinary trade expenses deductible when made, or (2) alternatively, they were assessable as in the year of receipt subject to allowance of probable disbursements, or (3) as a further alternative, at the end of the three years or six years, as the case might be, any unreturned surplus must be deemed a trade receipt. It was not disputed that proceeds of pledges under 10s. were trade receipts when received. The Special Commissioners had decided in favour of (3), and both parties appealed, the Revenue claiming the first basis, whilst the company claimed that the surpluses should be excluded altogether for tax purposes. Atkinson, J., in affirming the Special Commissioners' decision, rejected the Revenue contention, saying that he failed to see any principle whereby it could claim that the surpluses were trade receipts in the year when they arose. For the rest, he subjected Lord Greene's judgment in *Morley v. Tattersall* (1938, 22 T.C. 51), which had been relied on for the company, to an acute analysis, and showed that there, by reason of the special terms upon which *Tattersalls* did their business, the surpluses were not trade receipts when they arose, never changed their character, and never became

the legal property of the firm. Here, at the end of three years, the three-year-old surpluses did change their quality and then became trade receipts. In the case of pledges over £10, where the only change was not one of ownership but of the pledger's remedy being barred, the legal position was different, but he considered no distinction should be drawn.

*E.P.T.—Property holding company—Contract performance extending beyond accounting period—Lease with rent increasing after expiration of part of lease period—Discretion of Revenue owing to special circumstances—Finance (No. 2) Act, 1939, Schedule VII, Part I, para. 11.*

*London & National Property Co., Ltd. v. C.I.R.* (K.B.D., November 26, 1947, T.R. 425) was a more than usually interesting case by reason of the points of legal principle involved; and, whatever may have been the intrinsic merits of the dispute—these, usually, play but a small part in questions affecting the legal relationships of associated companies—it was one where the conventions of departmental practice were successfully challenged. Delegation of function is, of necessity, practised very largely in Government Departments, and, within limits, senior officials are accustomed to exercise as individuals powers given to Boards collectively. Whilst, however, this practice makes for the despatch of public business, it has its dangers and may, upon occasion, be open to real objection.

The circumstances out of which the dispute arose were in relation to the great Shell-Mex building upon the Embankment. The appellant company carried on a property-owning business, the bulk of its income being derived from the rent paid by Shell-Mex, Ltd., under a lease of the Shell-Mex building. Incorporated on January 30, 1931, it was formed to acquire the assets of another company, consisting almost entirely of properties now but not then covered by Shell-Mex House. The purchase was completed on February 6, 1931, and on the same day the company entered into an agreement with Shell-Mex, Ltd., for the building and lease of the new premises. The agreement recited that the company was about to issue debenture stock, £2,000,000, at 5 per cent., redeemable on or before April 15, 1967, by the annual operation of a sinking fund of 2 per cent. The first operation was to take place in the year commencing April 15, 1941, the service of the fund requiring £40,000 in that and the following years.

The company had agreed to grant Shell-Mex, Ltd., a lease from February 7, 1931, to March 25, 1931, and thereafter for 40 years at a rent from February 7, 1931, to March 25, 1941, at £160,000 p.a., and during the remaining 30 years (when the company had to provide £40,000 p.a. for the sinking fund), at £200,000 p.a. The lessee was to build Shell-Mex House under a building agreement, discharging in the first instance the whole of the costs; but the company ultimately agreed to contribute £1,346,730, which was expected to be available from the debenture issue after the discharge of debts taken over when it was incorporated in 1931. As the result of the arrangements, the amount payable in the company's standard period was £160,000, whilst for the calendar year 1941, the period under appeal, the rent was £190,000, being increased to £200,000 from March 25, 1941. The average rent for the whole period of the lease worked out at £189,911; the company's rights, other than the increase in 1941, were the same over the whole period of the lease; and unless the company's claim was admitted, it meant that the main part of the

sinking fund provision would pass to the Revenue in the shape of excess profits tax.

By the Finance (No. 2) Act, 1939, Seventh Schedule, Part I, para. 11, it is provided:

"Where the performance of a contract extends beyond the accounting period, there shall (unless the Commissioners, owing to any special circumstances, otherwise direct) be attributed to the accounting period such proportion of the entire profits or loss . . . as is properly attributable to the accounting period having regard to the extent to which the contract was performed therein."

Applying this rule to the contract of tenancy, it would seem to be clear that, *prima facie*—the fact that Shell-Mex House had not been built when the lease commenced is not noted in the judgment, probably from good reason—the total rent receivable over the period of the lease should be averaged, with £189,911 taken as the annual rent throughout. This fact was conceded by the Crown. Nevertheless, under the rule, the C.I.R. might direct otherwise "owing to any special circumstances," and, by proviso (a) to Section 21 (2) of the Finance (No. 2) Act, 1939,

"No appeal shall lie to the General or Special Commissioners in respect of any matter with respect to which an appeal lies to the Board of Referees or which is by this Part of this Act to be decided by that Board or is left to the discretion of the Commissioners" (of Inland Revenue).

Correspondence had taken place prior to February 15, 1946, between the Inspector and the company, and on that date a letter was written by the former in which it was stated that "After careful consideration of this matter, the C.I.R. have directed that owing to the special circumstances that the rent of £200,000 p.a. has no reference to any matter performed during any part of the period in which the rent of £160,000 per annum was paid" Rule 11 was not to be applied to the lease. The company appealed against the assessment made for 1941 upon general grounds, but, apparently, it was discovered by the Inland Revenue that there had been no consideration or direction given by the C.I.R., and, when the assessment was made, it was a bad one and appealable. So, on October 24, 1946, the C.I.R. met and a formal direction was made having much the same general tenor as the statement in the letter of February 15, 1946. It appears, however, from the report, that the Solicitor-General admitted that even this direction of October 24, 1946, had been made by only one Commissioner, but that this, in case of objection, would only mean another similar direction, a suggestion which Atkinson, J., met by saying that if the decision of the C.I.R. was found by "this or a Higher Court" to be plainly wrong, but not appealable except upon the technical irregularity, he believed the C.I.R. would give effect to the view of the Court. He said that he had "the greatest difficulty in seeing how anything done pending an appeal can affect the legality of the direction under appeal."

The judgment is a long one, carefully reasoned, and difficult of compression. The essential point of the judgment would seem to be that only where there are, in fact, "special circumstances," have the C.I.R. power to make a direction that the provisions in Para. 11 of Part I of the Seventh Schedule as to apportionment shall not operate, and this conclusion, reached by Atkinson, J., was summed up by him in the last paragraph of his judgment as follows:

"In my view, an appeal lies against this finding of a special circumstance. There was no special circumstance; their finding was wrong; it was based on a fallacious construction of the agreement, and is open to review."



**FINANCE****The Month in the City****Markets and Crises**

Gilt-edged and equities alike have been swayed by recurrent crises during the past month. The markets as a whole are now in a state of uneasy equilibrium, and many investors are attempting to extract, from the confusing behaviour of security prices during the latter half of January and the first part of February, some indication of their possible future trend. There have been two distinct waves of disturbance during the past month. The first arose from the devaluation of the franc and the decision of the French Government to set up a free market for dollars, escudos and gold. This step was widely interpreted as boding no good for sterling, and as bringing somewhat nearer the day when sterling might have to be devalued. The reaction to these rumours was inevitably—though perhaps a little illogically—a severe set back in gilt-edged stocks and active dealings in commodities, shares and gold issues. The second phase resulted from a combination of the Government's economic policy at home and the severe shake-out in American food and commodity prices. The reaction to this later combination of events was a recovery in gilt-edged on the argument—premature though it may seem—that the Government had decided to give battle to inflation at home, and a corresponding depression in industrial ordinary stocks on the ground that whether through a policy of positive devaluation or through particular measures to limit distributable profits and dividends, equity shareholders stood to lose. A better sense of balance about the fall in American commodity prices has now been restored; at first there were plenty of observers who suggested that this event heralded an economic slump of world magnitude, but the steadier tendency of commodity prices after their severe fall at the beginning of February has diminished these fears, and has encouraged the more moderate view that a reasonable adjustment of American prices from the inflated scarcity levels which prevailed at the turn of the year is likely to be to our advantage as consumers, and not to our disadvantage as exporters.

**The Course of Equities**

The cautionary views about the prospects for equity shares which were voiced on this page a month ago have proved to be justified. By January 19, the *Financial Times* industrial ordinary share index had declined from the "recovery corner" level of 129.0 at the turn of the year to 124.6. After a series of very depressing days in which the index fell several points, the fall was arrested in the middle of February, but after these signs of greater stability the index fell further to 112.4 on February 20. This sharp reaction in equities once again illustrates the present thinness of markets, and the one-way character of dealings. The complete lack of support for many leading industrials is illustrated by falls during the week ending February 14 of 10s. in Imperial Tobacco, and of up to 5s. in a series of leading industrial equities. Investors, however, are clearly not being tempted into the market while present uncertainties, particularly about increased Profits Tax, persist. They showed no great enthusiasm for the Government's White Paper on Personal Incomes, and were not encouraged (though equally they were not frightened) by Sir Stafford Cripps' statement on February 12 about the lowering of prices and profits. The general impression which appears to be abroad in the market is that Sir Stafford Cripps'

invitation to industry to solve this thorny question for him is unlikely to succeed—indeed, there are plenty of economists who would argue that it could not possibly succeed during the present phase of active inflation. With that prospect before them, investors clearly envisage the likelihood that the April Budget will have a rod in pickle for profits and perhaps dividends.

**Gilt-Edged Recovery**

The gilt-edged market seems to have been swayed during the past month by the shadow rather than the substance of economic problems. If it was somewhat illogical to take the prospect of devaluation so seriously in the middle of January, it was surely no less optimistic a month later to accept the notion that inflation had ceased, and that deflation was positively under way. Perhaps there was some tendency on the part of certain investors to hasten the reinvestment of moneys from the Argentine rail purchase, and from the nationalisation of electricity and gas stocks. But this can hardly have affected the general course of prices. One of the features of the month was the recovery of British Transport 3 per cent. stock 1978-88. During the January devaluation fears, Transport stock fell as low as 97½, but it has since risen quite smartly to 98½, and some observers are wondering how far this improvement is due to genuine investment support, and how far it derives from Government attention to the level of the stock in anticipation of the vesting date for electricity shares on April 1. It is, incidentally, rather singular that no official schedule of prices for electricity stocks has ever been issued. In the case of the railway stocks the prices of the "valued" stocks were given in the Act, while for gas stocks the Ministry of Fuel and Power issued an informal schedule of take-over prices with the Bill, which has been published during the last month.

**The Outlook**

From this confusing combination of events and influences, it is not easy for equity investors to pick their way with safety in the market. Many of them appear for the time being, at any rate, to have abandoned investment operations, and it is undeniable that the course of the market during the last 14 months provides much support for their argument that the trend is predominantly bearish, and that the recovery before Christmas was merely a short-term interruption to a bear trend. There are still those who support equities on the ground that inflation is rife, and that sooner or later it must be marked by a recovery in ordinary shares, but arguments of this kind appear to give little weight to the prospects, first, of higher taxation of company profits, and, secondly, of the interruption of British industrial activity which would be threatened by any marked delay or curtailment of Marshall aid, or by a swing in the export markets from sellers' to buyers' markets. The case for supporting gilt-edged stocks on the ground that positive deflation is afoot in Britain, again, seems to be making more than is justified of the present stage of the Government's economic policy, and to allow too little for the prospective competition of further blocks of quasi gilt-edged stocks which will shortly result from the taking over of the electricity industry, and, at a later date, of the gas industry. Indeed, perhaps not since 1929 has there been an occasion in the security markets when the need for rapid and careful decision was so obvious as it is to-day.

## Points from Published Accounts

### Effect of Profits Tax

The 1947 accounts of F. W. Woolworth & Co. have been drawn up to conform with the provisions of the new Companies Act. Most interesting of the additional information furnished is the detailed statement of assets. The fixed items have a balance-sheet total of £11,034,454, but this is shown to be a net sum arrived at after accumulated write-offs amounting to £5,537,357. Thus, against cost of £8,942,512, the freehold properties stand at £8,420,172, while leaseholds have been written down from £4,424,016 to £1,633,474, and fixtures, fittings and furniture from £3,205,283 to £980,808. Another feature of strength is the existence of a provision of £1,100,000 for obsolescence and depreciation of freehold and leasehold buildings. In the nature of things, the frankest statement of affairs must still leave a great deal to the investor's judgment; but particulars such as these should enable the least expert of outsiders to come to a firm conclusion over the relationship between book values and replacement values. The Woolworth accounts are also interesting because they have been adduced as proof that the doubled Profits Tax is, in some instances at least, more than offsetting the benefits that otherwise would be accruing from inflation. Such a broad deduction fails to take account, however, of the true nature of the tax charge debited to profit and loss this time. The total of £6,156,009 is made up of United Kingdom income tax, proportion 1946-47 and 1947-48, £3,765,664; United Kingdom Profits Tax and Eire Corporation Profits Tax on 1947 profits, £1,820,345; and transfer to future taxation account, £570,000. The company is now in the position that its future tax account of £4,320,000 covers the full liability for future taxation upon profits earned to date. But as this position of equilibrium has only now been arrived at, and as the £3,765,664 provided in respect of 1946-47 and 1947-48 assessments represents income tax on profits determined after allowing for Profits Tax at only 5 per cent., the total tax charge certainly cannot be regarded as strictly proportionate. In these accounts, in fact, the company is providing for Profits Tax at the new high rates, and for income tax as if the high rates were not applicable. Add to this that the larger sales secured in 1947 were obtained on a lower ratio of gross profit, and that the cost of operation was "very considerably greater," and the need for caution in assessing the precise effect of Profits Tax is manifest.

### English Electric

A sharp contrast with the Woolworth accounts is made by those of the English Electric Company. These include the accounts of D. Napier & Son, in which the company holds all the issued ordinary capital, brought in at £546,000, and of Marconi's Wireless Telegraph Company, in which it holds 99.5 per cent. of the issued capital, brought in at £2,258,768. It is possible, therefore, to conclude that the profits earned by these subsidiaries have been closely distributed. But there are no consolidated accounts to simplify the position, or to show how other subsidiaries, investments in which appear as an asset of £151,113, have fared; all we have is the statement under Section 126 that profits earned by the three trading subsidiaries other than Napier and Marconi's Wireless Telegraph have been carried forward in the books of those companies. Even more important, it is difficult to gain a comprehensive view of the group's balance-sheet situation, a matter of no little importance since English Electric itself had a bank overdraft of

£3,602,868 at December 27 last, and D. Napier was making use of an overdraft of £341,554. There is only limited value in attempting one's own consolidation of the three sets of figures provided, for, apart from the lack of information concerning the other subsidiaries, there is the difficulty that in the balance sheet of the parent company, "trade and other creditors, bills payable, contingency and other reserves, and provision for taxation on profits to date" are shown as one omnibus item of £5,778,129, while for D. Napier, creditors, bills and tax provision are shown at £1,158,028, and for Marconi's Wireless Telegraph creditors, contingency reserve and tax provision are given as £2,074,480. Another defect is that in each instance the trading profit is stated after deducting taxation of an undisclosed amount. How little the accounts have been influenced by the new accounting techniques which from July onwards will find universal adoption in published accounts is indicated by the entire absence of comparative figures relating to the previous year.

### British-American Tobacco

The report of the British-American Tobacco Co. expresses regret that considerable difficulty is being experienced in complying with the consolidation provisions of the new Companies Act in view of the extremely complex structure of the company. After consultation with the company's auditors, it has been decided to defer the issue of consolidated accounts until next year. With interests in subsidiaries accounting for £32,467,836 of a balance-sheet total of £71,484,860, this is a disappointment. There is, however, no obvious reason why trading profit should be lumped with dividends and interest: the total of £11,737,330 might well have been broken down into direct trading profit, income from subsidiaries, and other investment income. Apart from the holdings in subsidiaries, there are trade investments of £5,013,013, and "other investments—unquoted" of £1,973. The total investment item, at cost or under, is thus £37,482,822, and the auditors state that "the investments possess, in the aggregate, a value largely in excess of the figures shown in the balance sheet." An interesting feature is a balance-sheet note that the definition of a subsidiary company given in the Companies Act, 1947, has been adopted. The profit and loss account gives the tax position in detail: under the heading "United Kingdom taxation (less double taxation relief)" are debited £688,000 for E.P.T., £1,566,130 for Profits Tax, and £3,823,385 for income tax on income for year. The statement of assets is also drawn up on helpful lines, the book value of £502,686 for tangible fixed assets being shown after deduction of an accumulated provision of £1,543,596 for depreciation and obsolescence. The statement will, however, be a great deal more informative when similar particulars are furnished for the group as a whole.

### Stock Valuations

At a time when a break in commodity prices, combined with our own Government's attempts to peg wages, has raised the question whether the world may not be entering a deflationary phase, the action of the board of Leyland Motors in establishing a stock reserve of £600,000 for future redundancy and decline in value deserves remark. This reserve has been provided by a transfer of £230,204 from profit and loss, and by utilising a £75,000 surplus on reinstatement suspense account and sundry other provisions of £294,796. The stock and work



in progress of the group is reduced, by deduction of this reserve, from a gross figure of £4,329,035 (almost wholly representing the stock and work in progress of the parent company, as certified by the general manager) to a net sum of £3,729,035. The report explains that the stocks at home and overseas have been valued on a conservative basis as in previous years, but that in view of the present high level of prices, it has been considered advisable to establish a substantial reserve against the contingency of a fall in the general price level. For the

first time the company submits consolidated accounts; but this departure seems to follow not so much from anticipations of the provisions of the new Companies Act as from compliance with the requirements of the London Stock Exchange. During the year the company issued new capital, and permission to deal in the new shares was only granted, under the more recent regulations of the Stock Exchange, on the understanding that consolidated accounts would be made available to shareholders.

## Publications

**The Companies Act, 1947.** By S. W. Magnus, B.A., Barrister-at-Law, and Maurice Estrin, A.S.A.A. (Butterworth & Co. (Publishers), Ltd., London. Price 21s. net.)

**Company Law and Practice. The Changes effected by the Companies Act, 1947.** By Maurice Share, B.A., Barrister-at-Law, assisted by Cyril Mont, F.C.A. (Solicitors' Law Stationery Society, Ltd., London. Price 3s. 6d. net.)

Magnus and Estrin on the Companies Act, 1947, is a comprehensive treatise on the new Act and, with its index, covers 450 pages of closely printed text. After an account of the background to the Act, in which the recommendations of the Cohen Committee are set out in some detail, there follows a useful summary of its provisions. The main body of the work consists of the text of the Act with a very full annotation of each section, and some idea of the industry and attention to detail shown by the authors may be derived from the fact that Section 2, for example, dealing with the length of notice of meetings, earns for itself ten pages of notes. The authors have not confined themselves to notes on the changes effected, but deal at length with the existing law so far as it is relevant to the provisions of the 1947 Act. An appendix of suggested forms will be of particular interest to accountants, who will find forms of balance sheets, profit and loss accounts and auditors' report; apart from these, the notes on the sections give examples, where appropriate, of the effect of the new provisions from the point of view of accountancy practice. A second appendix contains a comparative table showing the sections of the 1929 Act affected by the new Act and the manner in which they are affected.

The form of the work and the detail which it embodies must make it primarily of value as a book of reference. The section annotations frequently quote not only the relevant recommendations of the Cohen Committee but also the proceedings on the Bill in Parliament. This is useful to elucidate the origin and intention of a particular provision, but it is not without its dangers when it is borne in mind that the true construction of a provision in an Act depends on the wording of that provision, not on the recommendation it may have been intended to give effect to and still less on the view of its meaning expressed during the passage of the Bill through Parliament. Some observations in the notes may need reconsideration. It is surely not the case (p. 61, note (i)) that a resolution dealing with special business must, accordingly, be a special resolution; and a capital redemption reserve fund is created after redemption of redeemable preference shares, not to effect the redemption (p. 267, note (d)). But these are comparatively small matters in a work of great thoroughness.

The second of the books mentioned above is much more modest in scope, format and price. It is No. 6 of the Oyez Practice Notes series and summarises the principal changes effected by the new Act. It follows

the order of the topics as they occur in the Act and states the effect of its various provisions. A certain amount of compression and brevity is inevitable in a work of this scope, but it furnishes a compendious account of the matters dealt with by the Act. Perhaps—especially having regard to the sub-title of the booklet—more room might with advantage have been found to mention more precisely the changes involved in the new provisions; for while the provisions are adequately stated the reader will often find it necessary to work out for himself what alterations they involve in the existing law. Nevertheless the booklet supplies in handy form a useful summary of the 1947 Act.

**Manual on the Law of Meetings.** By Sebag Shaw and H. A. R. J. Wilson, F.C.A., F.S.A.A. (Macdonald & Evans, London. Price 15s. net.)

This is a work of considerable merit. It is divided into five parts, which deal respectively with the common law and general regulation; the function, constitution and conduct of meetings; company meetings; meetings of local authorities; and meetings of miscellaneous bodies. Part 1 gives an outline of different kinds of assemblies including illegal assemblies, of the right of public meeting, and public meetings on private property and of freedom of discussion, and thus gives a general legal background which is wholly admirable. The authors proceed in Part 2 to a discussion of the regulation of proceedings, constitution and conduct of meetings and the general rules governing discussion and debate and voting. It is rather disappointing that these parts of the work which are of a general character do not deal more explicitly and on general principles with the power of a meeting to bind minorities, with the varying size of the minorities which can be bound, with such rights as dissentients occasionally possess, and with estoppels which may be held to bind those who have refrained from casting their vote. It is not, of course, suggested that these matters are not dealt with here and there and especially in the part on company meetings, but they are scarcely afforded the prominence which on principle they appear to merit. The part on company meetings is excellent, and should be extremely useful, while that on the meetings of local authorities should considerably extend the usefulness of the book to the general reader. The final chapter on meetings in bankruptcy, comprising eighteen pages, could with advantage be extended when the book is published in a new edition. It remains to add that the book is written in a pleasing literary style, and may be confidently recommended, especially to company secretaries and students for the secretarial examinations.—C. L. L.

**Synoptic Chart of the Income Tax Act, 1945.** By A. G. McBain, C.A. (Sweet & Maxwell, Ltd., London. Price 8s. 6d. net.)

The Income Tax Act, 1945, marked an important stage

in the controversial question of more adequate relief to industry for wear and tear. Unfortunately, in common with its predecessors, the lucidity of the Act is hardly on a par with its high intention, and it is this failing that Mr. McBain seeks to overcome by his Synoptic Chart. The booklet is, in fact, a collection of six charts of convenient size for desk use, dealing in turn with industrial buildings, plant and machinery, extractive industries, agricultural land and buildings, patents and scientific research. Each chart is so laid out to give details relating to the qualifications for relief, initial and annual allowances, the mode of computing the balancing allowance or charge as the case may be, together with a short final section devoted to explaining some of the more important expressions in the relevant chart. Reference to the detail of the Act is facilitated by marginal notation. There can be little doubt that the chart will be really valuable to those accountants who are not yet fully conversant with the radical changes introduced by the 1945 Act, and will form a useful *aide-memoire* for those who are closely and regularly concerned with its operation.—A.R.I.

**Guide to the Companies Act, 1947.** A Dictionary of the Changes in Company Law. (Sir Isaac Pitman and Sons, Ltd., London. Price 2s. net.)

**Jordans New Company Law—The Companies Act, 1947.** By L. J. Morris Smith, Barrister-at-Law. (Jordan & Sons, Ltd., London. Price 10s. 6d. net.)

These two books will provide a timely aid to both students and practitioners. The "Guide to the Companies Act" is a short work, the subjects treated being arranged in alphabetical order with references to the relevant sections of the 1929 and 1947 Acts. It is intended to be used as a supplement to Pitman's publications on Company Law and Practice for use until such time as the books can be revised to incorporate the changes. The

book will serve very well the purpose for which it is intended, and, in addition, it provides in a reasonably small space a useful summary of the whole subject in a very readable form.

"Jordans New Company Law" is a fuller work, and contains the full text of the Companies Act, 1947, and its Schedules. There is also a useful index cross-referencing the Report of the Cohen Committee with the Sections in the 1947 Act, and a similar summary indicating the Sections of the 1929 Act which have been amended or repealed by the 1947 Act, and containing references to the provisions of the 1947 Act in which these alterations may be found.

The text of this work is also arranged in alphabetical order of subjects, and, where appropriate, extracts are repeated of the provisions of the Act itself. There are full references everywhere to the new and old statutory provisions. In treating the subject "Compensation for Loss of Office," for example, Section 150 of the Companies Act, 1929, is set out in full, incorporating the amendments by Section 36 of the Companies Act, 1947. Similarly, an attempt has been made by the author to reprint the Fourth Schedule of the 1929 Act relating to the contents of prospectuses by introducing the amendments to these requirements provided by Sections 61 and 62 of the 1947 Act. The author is careful to point out that the incorporation of the amendments in the form given in his text is not provided by the new Act, and that it should, therefore, be regarded as nothing more than the author's attempt to provide a consolidated Fourth Schedule. The result will be of great service in practice. This book will not only be useful during the interim period before the passing of a Consolidation Act, but can be regarded as an addition to the library of permanent value.

In both works there is a reference to the announcements which have so far been made relating to the dates on which parts of the Act will come into force.—J. A. J.

## LAW

## Legal Notes

### COMPANY LAW

#### Articles—Retiring directors.

In *Grundt v. G.B. Mines, Ltd.* (1948, All E.R.21), a company's articles provided (a) seven days' notice of general meetings, specifying the general nature of any special business (21 days' notice when it was proposed to pass a special resolution); (b) the business of a general meeting should be to elect directors in place of those retiring in rotation; (c) until otherwise determined by the company in general meeting, the directors should be not less than three or more than five; (d) at the ordinary general meeting each year, one-third of the directors should retire and be eligible for re-election; and (e) at any general meeting at which any directors retired, the company might fill the vacated offices. Article 102 provided that if at any general meeting at which an election of directors ought to take place, the place of any director retiring by rotation was not filled, he should, if willing, continue in office until the ordinary meeting in the next year, and so on from year to year until the place was filled, unless it should be determined at any such meeting on due notice to reduce the number of directors in office. At the annual general meeting in July, 1947, G. retired by rotation from the board of directors and the resolution for his re-election was lost on a show of hands. The notice convening the meeting gave no notice of any resolution to reduce the number of directors in office. After G.'s retirement there remained four directors of the company. G. con-

tended that, under article 102, he remained in office until the ordinary meeting in 1948, and so on from year to year until his place was filled, unless it was determined at any meeting to reduce the number of directors in office. The Court of Appeal, reversing a decision of Wynn-Parry, J., held that on the true construction of the articles, the number of directors in office was not to be reduced until there was a specific resolution of the company to the effect after proper notice. The fact that G. was not re-elected and no one was elected to fill the vacancy was not a determination of the company to reduce the number of directors; therefore, under the articles, G. was entitled to continue in office until his place on the board was filled or until it was determined by any meeting, on due notice, to reduce the number of directors in office.

#### Winding-up—Legal estate in freehold—Vesting order.

In *Re Strathblane Estates, Ltd.* (1948, W.N. 38), the three applicants each held one-third of the issued share capital of the S. company, which was incorporated in 1936, and acquired and managed a number of freehold properties. In 1938 a number of the properties were sold, and the shareholders decided that the company should be wound up and the remaining properties divided amongst themselves in specie. This was reported to a directors' meeting held on March 17, 1938, and recorded in the minutes. On April 14, 1938, at an extraordinary general meeting, it was resolved that the



company should be wound up, and the respondent N., (who did not appear) was appointed liquidator. The final meeting pursuant to Section 236 of the Companies Act, 1929, was held on April 20, 1940, and the company was dissolved on April 25, 1942. No action had been taken to convey the legal estate in the properties to the applicants. The applicants asked for an order that the estate and interest in the properties which immediately prior to its dissolution were vested in the company should vest in the applicants for the estate and interest and upon the trusts on which such properties were held by the company. Jenkins, J., said that the company had held the properties in trust for the applicants. This was evidenced by the entries in the minute books of both the directors' and the general meetings, signed by the chairman, and by the title deeds having been handed to the applicants. Accordingly, Section 44 (2) of the Trustee Act, 1925, applied, and the proper form of application would be a summons under that Act. The matter was complicated by Section 181 of the Law of Property Act, 1925, which apparently implied that when a corporation in possession of a legal estate was dissolved, the legal estate came to an end so as to make it necessary to create a new estate. It was stated in the Practice Rules that an application for a vesting order must be made under Section 181 of the Law of Property Act, 1925, unless the company had held the land as trustees under an express trust. It did not follow, however, that it was necessary in every case to create a new estate; the idea of the dissolution of the legal estate along with that of the company seemed to have arisen from *dicta* in previous judgments. Under Section 296 of the Companies Act 1929, the legal estate vested in the Crown; as the company had held the properties as a trustee, the Crown took the trust property subject to the rights of beneficiaries. The reference to the Law of Property Act, 1925, should be deleted from the summons. When the company had been a trustee, all that was required was a vesting order under Section 44 of the Trustee Act, 1925. There would be an order as prayed, with directions that the applicants should hold the properties as joint tenants on the statutory trusts for sale.

#### *Liquidators—Review of transactions.*

In *Re Miles Aircraft, Ltd.* (1948, W.N. 48), there was an application to the Court under Section 173 of the Companies Act, 1929. A winding-up petition was presented on November 11, 1947. The next day the company entered into a contract to sell certain leasehold premises, of which it was the registered owner. They were not required for its business. On November 18 the applicant, who had debentures secured as a floating charge on the undertaking, appointed a receiver. The applicants wished to adopt the contract and were afraid of delay. It was averred that as the applicants had only an equitable charge, they had no statutory power to sell and transfer the legal estate without the company's concurrence; also that title made by the receiver or the directors would not, if made after the date of presentation of the petition, be accepted or registered, as such a disposition might be void under Section 173 if a winding-up order were made. The applicants asked for an order that the contract should not be void, notwithstanding Section 173. Vaisey, J., said the object of the Section was to enable the liquidator, if a winding-up order was made, to review transactions entered into since the liquidation. The Court could not anticipate the liquidator's decision, and the Section gave it no jurisdiction to deal with the matter conditionally. If the petition were ultimately dismissed, the Court order would be otiose; if not, the matter was for the liquidator.

On general principles, the Court could make no order except in the actual progress of a winding-up by the Court.

#### EXECUTORSHIP LAW AND TRUSTS

##### *Will—"During widowhood"—Second marriage and nullity*

Unusual circumstances made necessary the action *Re Dewhirst* (1948, W.N. 39). By his will, dated March 10, 1937, a testator directed his executors and trustees to pay the income of his residuary estate unto his wife during her lifetime provided "she shall so long continue my widow." Upon her remarriage, she was to receive only one half of the income, and on her remarriage or death, the other half of the estate or the whole estate, as the case might be, should fall into residue, to be held on certain trusts for the benefit of his children. The testator died on March 21, 1937. In June, 1942, the widow went through a ceremony of marriage, and by a final decree, pronounced on March 21, 1947, that marriage was declared absolutely void by reason of the husband's incapacity to consummate the marriage. The question at issue was whether the testator's widow was to be treated for the purposes of the will as still continuing to be his widow, and accordingly, whether she was entitled to the whole, or to one half only, of the income of his residuary estate. Harman, J., said he was only concerned with the income from and after the decree. Having regard to the form and wording of the decree, the second marriage must be treated as never having happened, and she could now say that she was the widow of the testator. He would therefore declare that she was entitled to the whole of the income of the residuary estate.

##### *Soldier's will—"Actual military service."*

By virtue of the Wills Act, 1837, Section 11, a soldier, sailor or airman, whilst "in actual military service," may execute an informal, or even an oral, will, of full validity. During the recent war, several interesting decisions were made as to the meaning of the words "in actual military service," particularly in regard to men in the Home Guard. In *Re Wingham deceased*, the deceased executed a testamentary document whilst in Canada, training for operational flying duties. He was a member of the R.A.F., and was killed in a flying accident on duty. Pilcher, J., held that he was not "in actual military service" within the Section, and that therefore the "will" had no validity. He said that those to whom the privilege extended were those who in wartime were actively engaged in a campaign or were under orders so to do, or were in a base from which operations were being actively conducted. It would be wrong to consider the whole world as a theatre of war, and a man who was sent under orders to undergo training in a place far removed from the fighting zones could not be held to be "on active military service."

#### Books Received

**Shipping Law.** By Lord Chorley, M.A., and O. C. Giles, LL.M., Barristers-at-Law. (Sir Isaac Pitman & Sons, Ltd., London. Price £1 net.)

**Rebuilding Europe's Fat Supplies.** (Lever Brothers & Unilever, Ltd., London.)

**Guide to Examination Success.** By Frank H. Jones, F.L.A.A., A.C.I.S. (Barkley Book Co., Ltd., 20, Rutland Road, Harrow, Middlesex. Price 2s. 6d. net.)

**Law of Banking.** By Lord Chorley, M.A. Second edition. (Sir Isaac Pitman & Sons, Ltd., London. Price 18s. net.)

# Society of Incorporated Accountants

## Dinner to the Right Hon. the Lord Chancellor

The President (Sir Frederick Alban, C.B.E.) and the Council of The Society of Incorporated Accountants gave a dinner at Claridges, on February 9, in honour of the Right Hon. The Lord Chancellor (Viscount Jowitt). The guests included Mr. John Adamson (The Association of Scottish Chartered Accountants in London), Mr. R. W. Bankes, C.B.E. (Secretary, The Institute of Chartered Accountants), Mr. C. V. Best (Chairman, London District Society), Sir Roland Burrows, K.C., Sir William Coates (Deputy Chairman, Imperial Chemical Industries), Mr. Arthur Collins, Mr. C. E. Edwards (President, South Wales and Monmouthshire District Society), Mr. Llewellyn Francis (Registrar, Cardiff and Barry County Court), Mr. J. D. Hamer (President, Manchester District Society), Mr. R. Moelwyn Hughes, K.C., Mr. A. V. Hussey (President, London Students' Society), The Lord Latham, Mr. Joseph Latham (Director-General of Finance, Coal Board), Mr. Maurice Liddell, Mr. T. G. Lund (Secretary, The Law Society), Mr. E. H. Marker, C.B. (Under-Secretary, Board of Trade), Mr. E. C. Martin, C.B.E. (County Courts Branch, Lord Chancellor's Office), Hon. Sir Albert Napier, K.C.B., K.C. (Permanent Secretary, Lord Chancellor's Department), Sir Frank Newson-Smith, Bart. (President, London Chamber of Commerce), Mr. Charles Norton, M.B.E., M.C., Mr. F. E. Price, Mr. F. N. Rex (President, Chartered Auctioneers' and Estate Agents' Institute), Mr. Gilbert Shepherd, M.B.E. (President, Institute of Chartered Accountants), Colonel W. Mackenzie Smith, D.S.O. (President, The Law Society), Mr. C. G. Stillman (Vice-President, Royal Institute of British Architects), Mr. J. C. Summerskill (President, Liverpool District Society).

The members of the Council present were: Mr. J. Paterson Brodie (Vice-President), Mr. John Ainsworth, M.B.E. (Liverpool), Mr. A. Stuart Allen (London), Mr. C. Percy Barrowcliff (Middlesbrough), Mr. R. M. Branson (Leicester), Mr. E. Cassleton Elliott (London), Mr. M. J. Faulks (London), Mr. Alexander Hannah (Liverpool), Mr. L. C. Hawkins (London), Mr. C. A. G. Hewson (London), Sir Thomas Keens, D.L. (London), Mr. D. R. Matheson (Edinburgh), Mr. A. E. Middleton, L.C.C. (London), Mr. Bertram Nelson (London), Mr. James Paterson (Glasgow), Mr. T. Harold Platts (Birmingham), Mr. F. A. Prior (Nottingham), Mr. Henry Smith (Manchester), Mr. R. E. Starkie (Leeds), Mr. Joseph Stephenson, O.B.E. (Peterborough), Mr. Percy Toothill (Sheffield), Mr. Richard A. Witty (London), Mr. R. E. Yeabsley, C.B.E. (London), together with Mr. A. A. Garrett, M.B.E. (Secretary), and Mr. C. Evan-Jones, M.B.E. (Assistant Secretary).

Sir Frederick Alban, in proposing the toast of "The Right Hon. The Lord Chancellor and the other guests," acknowledged the great honour which fell to his colleagues and himself of receiving Viscount Jowitt and other distinguished guests. He questioned whether there was any office under the Crown which demanded such versatility, impartiality and wisdom as that of Lord High Chancellor. In his person he combined the three functions of government, the *legislative* through his work in the House of Lords, the *executive* through his control of a Government department and his Cabinet functions, and the *judicial* through his duties in the House of Lords as a Court of Appeal. Modern legislation often embraced important considerations which might fall outside or might only

be incidental to the broader issues of Government policy; for example, the duties and status of the professions. In these matters the country derived great advantage from the learning and the authority of the Lord Chancellor.

Sir Frederick referred to the wise and statesmanlike service rendered by Viscount Jowitt in relation to the Companies Act, 1947. Few Acts had so closely affected the daily work of the accountancy profession. He was happy that it had been found practicable to preserve the flexibility and liberties of the joint stock system while requiring fuller publicity and a wider measure of contact by shareholders.

His Lordship had also interested himself in the status of accountants in their relations with the public and his advice had stimulated a welcome step towards co-ordination between the accountancy bodies which had resulted in the preparation of a draft Public Accountants Bill.

Sir Frederick concluded by a reference to the recent christening in the Chapel of the Houses of Parliament of Lord Jowitt's grandson, William Jowitt Dafydd Wynn-Williams, which was of singular pleasure to him (Sir Frederick) as a Welshman.

The Lord Chancellor responded to the toast and thanked the President and Council for their hospitality. He referred to the importance of the work of the profession of accountancy and the need for a high standard of qualification and of professional conduct among practising accountants—a view which had long impressed itself upon him.

At the conclusion of the proceedings, Colonel W. Mackenzie Smith (the President of the Law Society) proposed the health of Sir Frederick Alban.

## COUNCIL MEETING

TUESDAY, FEBRUARY 10, 1948

Present: Sir Frederick Alban, C.B.E., J.P., President (in the chair), Mr. J. Paterson Brodie (Vice-President), Mr. A. Stuart Allen, Mr. C. Percy Barrowcliff, Mr. R. M. Branson, Mr. E. Cassleton Elliott, Mr. M. J. Faulks, M.A., Mr. Alex. Hannah, Mr. L. C. Hawkins, Mr. C. A. G. Hewson, Mr. Walter Holman, J.P., Sir Thomas Keens, D.L., Mr. D. R. Matheson, M.A., LL.B., Mr. A. E. Middleton, L.C.C., Mr. James Paterson, Mr. T. Harold Platts, Mr. Henry Smith, Mr. R. E. Starkie, Mr. Joseph Stephenson, O.B.E., Mr. Percy Toothill, Mr. Richard A. Witty, Mr. A. A. Garrett (Secretary), and Mr. I. A. F. Craig (Deputy Secretary).

Apologies for non-attendance were received from: Mr. John Ainsworth, M.B.E., Mr. R. Wilson Bartlett, D.L., Mr. Robert Bell, Mr. A. B. Griffiths, Mr. Bertram Nelson, J.P., Mr. F. A. Prior, Mr. A. H. Walkey, Mr. F. Woolley, J.P., Mr. R. E. Yeabsley, C.B.E.

### THE LATE MR. PERCY H. WALKER

The Council received with great regret intimation of the death of Mr. Percy H. Walker, Fellow, who had been Hon. Secretary and subsequently President of the South Wales and Monmouth District Society, and had been one of the Auditors of the Parent Society. The Council recorded its tribute to Mr. Walker and to his sustained and valuable work for the Society. A resolution of condolence with Mrs. Walker and her daughter was adopted.

### VISIT OF SIR THOMAS KEENS, D.L., TO SOUTH AFRICA

The Council received a report from Sir Thomas Keens of his visit to South Africa and of his meetings with the Committees of the Society in Cape Town, Johannesburg, and Durban respectively. He particularly referred to the generous contributions made by the members in South Africa to the cost of the restoration of Incorporated Accountants' Hall



and to the Benevolent Fund, and to the cordial reception he had received. This was the first visit paid by a Past-President to the South African Committees for many years.

The Council directed that a communication be made to each of the South African Committees to express the warm thanks of the Council for the welcome extended to Sir Thomas Keens and for their continuous interest in the affairs of the Society in South Africa. It was decided to record on the minutes a report of Sir Thomas's visit and the thanks of the Council to Sir Thomas for his action and for his valuable report.

#### EXCHANGE OF INFORMATION WITH OTHER BODIES OF ACCOUNTANTS

It was agreed to accept a suggestion made at a meeting sponsored by the American Institute of Accountants, that published information and publications of professional accountancy bodies be exchanged on an international basis.

#### VISITS OF PRESIDENT TO BRANCHES AND DISTRICT SOCIETIES

The President made a report of his recent visits to the Devon and Cornwall District Society (Plymouth), to the Society's Branch in Ireland (Dublin), and to the North Lancashire District Society (Preston), where he and the Secretary had been entertained at functions, and where he had informally exchanged views with the members.

The Council congratulated the President on the honour paid to him and to Mr. Gilbert Shepherd, President of the Institute of Chartered Accountants, at a dinner in Cardiff in December, 1947, given jointly by the South Wales and Monmouth Society of Chartered Accountants and the South Wales and Monmouth District Society of Incorporated Accountants, to mark the unique circumstance that both Presidents at the present time practised in Cardiff and in South Wales and Monmouthshire.

#### DEATHS

The Secretary reported the death of each of the following members, and intimated that an expression of the sympathy of the Council had been communicated to the relatives of each of the deceased members:—

AKED, Henry Charles (Associate), Halifax.  
 AXBRIDGE, John (Fellow), Pinner, Middlesex.  
 BAKER, George Culross (Associate), Jos., Nigeria.  
 BRONSON, William (Associate), London.  
 CICERCI, Arthur Cyril (Associate), Rio de Janeiro.  
 COOK, Nicholas (Associate), London.  
 DARNELL, Edward, O.B.E. (Fellow), Newcastle-on-Tyne.  
 ELLIS, Benjamin William, M.C., T.D. (Associate), Shanklin, I.O.W.  
 EMMS, Herbert Charles (Associate), Norwich.  
 FRANCIS, Rowland (Associate), Hull.  
 HARRISON, Harold Charles (Fellow), Stourbridge.  
 HAYWARD, Thomas (Fellow), Bradford.  
 HOOSON, Denis Reginald (Associate), Halifax.  
 INNES, Alexander Young Davidson (Associate), Aberdeen.  
 ROBERTSON, Thomas James (Associate), Liverpool.  
 SMITH, Thomas Schofield (Fellow), Bury.  
 THOMAS, Percy Elvy Tenterden (Fellow), London.  
 THOMAS, Robert Henry (Associate), Liverpool.  
 UNDERWOOD, Charles Ernest (Associate), Bournemouth.  
 WALKER, Percy Henry (Fellow), Saundersfoot, Pembrokeshire.  
 WATLING, John Tait (Associate), Farnham, Surrey.

#### RESIGNATIONS

The Council accepted with regret the following resignations of membership with effect from January 1, 1948 (except where otherwise indicated):—

BARKER, James (Associate), Leeds.  
 FORFEITT, Harry Frederick (Associate), Northwood.  
 HARRISON, Frank (Fellow), Leeds.  
 HENDRIE, Percy Matthew (Fellow), Boston, Mass.  
 JACKMAN, Kenneth Alfred (Associate), London.  
 MOSELEY, Edwin Thomas (Associate), Eastbourne.  
 TAYLOR, Harry Rawlings, M.B.E. (Associate), London.  
 WILKINSON, LEONARD (Associate), Blackpool.  
 HUMPHRIES, Thomas (Associate), Grantham's Landing, British Columbia (1947).  
 ROBERTS, Harry Staveley (Associate), Glasgow (1949).

## SPECIAL COUNCIL MEETING

#### REPORT FROM THE DISCIPLINARY COMMITTEE

A special meeting of the Council was held on February 10, 1948, in accordance with Articles 34 and 35.

A report was received from the Disciplinary Committee that John Robert Johnson had been convicted at Birmingham Assizes of knowingly and wilfully making false statements in returns of his total income for purposes of income tax and in a return for super tax.

The Council, having considered the report of the Disciplinary Committee, resolved that John Robert Johnson, Fellow, Birmingham, be and is hereby excluded from the Society in accordance with Articles 34 and 35.

## EXAMINATIONS

Questions on the Companies Act, 1947, will not be set in the Intermediate or Final Examination of the Society until after the May, 1948, examinations.

In the Intermediate Examination no further questions will be set on excess profits tax, but Final candidates must be prepared to answer questions on this tax. At least six months' notice will be given of the discontinuance of these questions in the Final Examination.

The Preliminary, Intermediate and Final Examinations will be held on May 4, 5 and 6, 1948, at London, Manchester, Leeds, Cardiff, Glasgow, Dublin, and Belfast, and (for South African candidates) at Cape Town, Durban and Johannesburg. Applications on the appropriate form, accompanied by all relevant supporting documents and the fee, must reach the Secretary at Incorporated Accountants' Hall not later than Tuesday, March 16, 1948.

The Society does not undertake to arrange hotel accommodation. Candidates must make their own arrangements in this respect.

## RESULTS OF EXAMINATIONS IN SOUTH AFRICA

#### NOVEMBER, 1947

##### Passed in Final

##### Alphabetical Order

BLANN, BASIL EDWARD JOHN, B.Comm., clerk to Francis Dix, Bird & Co., Stability Buildings, Fox Street, Johannesburg.  
 JONES, STANLEY ALEXANDER, B.Comm., clerk to Dryden & Co., P.O. Box 191, Salisbury, S. Rhodesia.  
 PICKETT, ANTHONY JOHN, clerk to Deloitte, Plender, Griffiths, Annan & Co., 15/19, Mutual Buildings, Second Street, Salisbury, S. Rhodesia.  
 SLUIS-CREMER, HENDRIK JAN, B.Com., clerk to Savory & Co., 708, Mutual Building, Harrison Street, Johannesburg.  
 WELHAM, NORMAN LOVEL, formerly clerk to Salisbury, Beaton & Raynham, 10, Church Street, Kimberley.

(Five candidates failed to satisfy the Examiners.)

## DISTRICT SOCIETIES

#### LONDON AND DISTRICT AND LONDON STUDENTS' SOCIETIES

##### Joint Programme of Lectures, Spring, 1948

- \*Jan. 19 "The Retirement and Other Benefits Provisions of the Finance Act, 1947," by Mr. H. E. Seed, A.C.A. Chairman: Mr. C. V. Best, F.S.A.A.
- Feb. 9 "Equitable Apportionments," by Mr. A. F. Chick, F.C.A., Incorporated Accountant. Chairman: Mr. J. A. Allen, A.S.A.A.
- \*Feb. 23 "The Accounts of Investment and Unit Trusts," by Mr. Everard Tinling, Incorporated Accountant. Chairman: Mr. Eric Green, A.S.A.A.

- March 1 "General Aspects of Modern Banking," by Mr. T. J. G. Champion, B.Com., Superintendent of Branches, Midland Bank Ltd. Chairman: Sir Frederick Alban, C.B.E., J.P., President of the Society of Incorporated Accountants.
- March 15 Students' Night. Your questions answered by Mr. Bertram Nelson, J.P., F.S.A.A., Mr. L. C. Hawkins, F.S.A.A., Mr. Sebag Shaw, Barrister-at-Law. Chairman: Mr. E. Cassleton Elliott, F.S.A.A.
- \*March 22 "Current Economic Problems," by Mr. Collin Brooks, Editor of *Truth*. Chairman: Mr. E. Baldry, F.S.A.A.
- April 5 "The Auditor and the Companies Act, 1947," by Mr. A. E. Langton, LL.B., A.C.A., Incorporated Accountant. Chairman: Mr. L. A. Biddle, M.C., B.A.
- \*April 12 "Local Government Finance," by Mr. Frank Holland, Incorporated Accountant, Assistant Comptroller of the London County Council. Chairman: Mr. L. Quinton, B.A., B.Sc., A.S.A.A.
- April 19 "Liabilities (War-Time Adjustment) Acts," by Mr. C. W. Bird, a Liabilities Adjustment Officer. Chairman: Mr. E. C. Martin, C.B.E., Superintendent of County Courts.

Meetings will be held in the Hall of the Auctioneers and Estate Agents' Institute, 29, Lincoln's Inn Fields, W.C.2, at 6 p.m.

\* Arranged by the London and District Society.

#### LONDON STUDENTS' SOCIETY

A buffet dance for members and their friends will be held on May 10 in the South Hall Suite of the Victoria Halls, Bloomsbury Square, London, W.C.1, from 7 p.m. to midnight. Dress will be informal. Tickets, which may be obtained from the Secretary, are 5s. each, exclusive of drinks and refreshments.

#### INCORPORATED ACCOUNTANTS' LODGE

The one hundred and third meeting of the Incorporated Accountants' Lodge was held at Freemasons' Hall, London, W.C.2, on January 27, W. Bro. D. F. Goode being in the chair. This was a unique occasion, as amongst those present were V.W. Bro. Sir Frederick J. Alban, President of the Society of Incorporated Accountants, and W. Bro. Gilbert D. Shepherd, President of the Institute of Chartered Accountants, both from the city of Cardiff.

The Secretary of the Lodge is Mr. A. S. Darr, 35, New Broad Street, London, E.C.2.

#### PERSONAL NOTES

Since our last issue, intimation has been received that Mr. Henry Brown, F.S.A.A., City Treasurer of Rochester, received from His Majesty the honour of O.B.E. (announced in the New Year Honours List) for his valuable services as Honorary Secretary of Rochester Savings Committee.

Mr. E. Long, F.S.A.A., F.C.I.S., secretary of the Institute of Municipal Treasurers and Accountants, has been appointed a Deputy Chief Accountant to the British Electricity Authority.

The following members of the Society have been appointed Chief Accountants to Area Electricity Boards established under the Electricity Act, 1947: Mr. E. Sinnott, A.S.A.A., South-Eastern; Mr. Fred Nock, A.S.A.A., Midlands; Mr. E. Van Ham, A.S.A.A., Yorkshire; Mr. W. Appleyard, A.S.A.A., North-Western.

Mr. A. V. Hussey, F.S.A.A., President of the Incorporated Accountants' Students' Society of London and District, has been elected Deputy Clerk to the Worshipful Company of Basketmakers.

Mr. Reginald Hindley, F.S.A.A., practising as Hindley, Hamer & Co., Incorporated Accountants, Corn Exchange Buildings, Manchester, 4, and at Southampton Street, London, W.C.2, announces that Mr. Henry McEwen, A.S.A.A.,

B.Com., joined him in partnership on January 1, 1948. The firm name is unchanged.

Mr. W. Girdler Evans has admitted Mr. D. Graham Evans into partnership. They will practise under the style of W. G. and D. G. Evans & Co., Incorporated Accountants, at 443, Newport Road, Cardiff.

#### REMOVAL

Messrs. B. de V. Hardcastle, Burton & Co., Incorporated Accountants, announce that they have transferred their Northwood office to Green Roofs, Northwood Way, Northwood Hills, Middlesex. Telephone, Northwood 1256.

#### The Officers' Association

The twenty-eighth annual report of the Officers' Association records that the year ended September 30, 1947, was one of steady progress and increasing work in all departments. There is clear evidence that the demands on the Association's services will steadily increase for some years to come.

The Officers' Association acts as the Officers' Department of the British Legion.

Relief has been granted in respect of periods of unemployment or sickness, convalescence, and passages overseas. The Business Grants Committee have assisted many applicants to re-settle themselves in civil life, and the number who have succeeded and have returned part or the whole of the grant is very gratifying. Disabled ex-officers have been assisted with the cost of training and re-settlement, and some have been helped to obtain cars for business purposes. In its efforts to ensure that children get the education they would have had had their fathers not suffered from war service, the Committee is happily free from rules and regulations.

Effective work has been done by the Claims and Pensions Bureau, the Free Legal Advice Bureau, the Employment Bureau, and the Retired Pay and Pensions Committee. The Employment Bureau has placed ex-officers into jobs at a steady rate of 100 a month.

#### Estate Duty: Delivery of Inland Revenue Affidavits

The Board of Inland Revenue intimate that, in the case of persons dying on or after April 10, 1946, where the value of the estate included in the Inland Revenue Affidavit is under £1,500 net, and a domicile outside Great Britain is not claimed, the Inland Revenue Affidavit should be lodged at the Principal Probate Registry or a District Probate Registry without prior reference to the Estate Duty Office.

#### New Inspector-General in Bankruptcy

Mr. A. H. Ward, O.B.E., Inspector-General in Bankruptcy and Registrar of Deeds of Arrangement, has retired and has been succeeded by Mr. C. R. Bruce-Park, whose title is Inspector General of Companies, Companies Liquidation and Bankruptcy.

#### Registrar of Companies

Mr. Joseph Cowen has been appointed Registrar of Companies in place of Mr. Francis Septimus Tredinnick.

#### Birmingham Lectures on Industrial Administration

A second lecture-discussion course for senior industrial executives is being arranged by the Department of Industrial Administration at the Birmingham Central Technical College, in consultation with the Birmingham Centre of the Institute of Industrial Administration. The course will be conducted by Mr. J. J. Gracie, M.I.E.E., F.I.A., and will be devoted to a detailed examination of the Measurement of Work and Wages. It will be held on six consecutive Saturday mornings commencing April 3, 1948. Admission is restricted to industrial executives at the level of director or factory, design, sales, production, personnel or financial management. Those interested should communicate with Mr. D. H. Bramley at the Birmingham Central Technical College.